

JOURNAL
OF THE
SENATE
OF THE
STATE OF ALABAMA
REGULAR SESSION
OF 1992

HELD IN THE CITY OF MONTGOMERY
COMMENCING TUESDAY, FEBRUARY 4, 1992



Vol. 2

WITH AN INDEX PREPARED BY THE
SECRETARY OF THE SENATE

CONTENT

To facilitate research in the Senate Journal, the following information is included at the end for your convenience:

1. Legislative roster, listing names and addresses of all members of the current Legislature by district;
2. A listing of legislative days, with calendar dates and pages on which each day begins;
3. A topic index of general bills listed alphabetically by subject matter;
4. A topic index of local bills listed alphabetically by counties;
5. A topic index of resolutions;
6. A miscellaneous index, including all items not categorized as bills or resolutions;
7. A Senate resolution index listed alphabetically by sponsor;
8. A sponsor index, listing all Senate bills and resolutions alphabetically by author;
9. A Senate bill numerical index, with short titles;
10. A House bill numerical index, with short titles;
11. A Senate joint resolution, Senate resolution numerical index, with short titles;
12. House joint resolution numerical index, with short titles;
13. Act Index.

FOURTEENTH LEGISLATIVE DAY

WEDNESDAY, MARCH 11, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Walter Owens, Twenty-Fourth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Brian Richardson, Pizitz Middle School, Birmingham, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Thirteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator Preuitt, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator Preuitt, leave of absence was granted Senators Figures and Mitchem for today.

RESOLUTIONS

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 51. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the fourteenth legislative day of the 1992 Regular Session only:

S. 122

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Workers' compensation, substantially revised, admin. law judges estab., ct. procedure alt., medical charges capped, numerous secs. of Title 25 am'd. and repealed

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

Senator Langford requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 52. CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON ELECTION LAW REFORM.

WHEREAS, it is necessary for the Legislature to provide for fair and accurate elections in a democratic society; and

WHEREAS, among other issues there exist considerable conflicts

in the current election laws, the costs involved in holding elections have increased dramatically, and the increased use of absentee ballots presents a potential for abuse; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study election law reform. The committee shall be composed of four members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets of the laws relating to elections.

An Advisory Committee, whose members shall receive no remuneration, shall be formed with one member being appointed by each of the following: President of the Alabama Probate Judges Association; three Judges appointed by the President of the Alabama Probate Judges Association; the President of the Alabama Association of Clerks and Registers; the President of the Alabama Association of Boards of Registrars; the President of the Alabama Sheriff's Association; the Secretary of State; and others the committee may deem advisable.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the 5th legislative day of the 1993 Regular Session, whereupon, the committee shall stand dissolved and discharged of any further duties and liabilities. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed five thousand dollars (\$5,000).

Which was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Senate amendment to the following House Bill:

H. 253. To amend Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots for the 1992 election cycle only, and to shorten the time period for the filing of declarations of candidacy, and for the certification of candidates only for the 1992 U. S. House of Representatives election cycle, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 41. MOURNING THE DEATH OF TROOPER ROBERT WILLIAM JONES OF TROY, PIKE COUNTY, ALABAMA.

Also:

SJR 42. COMMENDING GREG BUTRUS OF BIRMINGHAM, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT.

Also:

SJR 43. MOURNING THE DEATH OF ROBERT WILKINS OF MOBILE, ALABAMA.

Also:

SJR 44. COMMENDING EMILY STAPLES HEARIN, 1991 MOBILIAN OF THE YEAR.

Also:

SJR 45. ADOPTING AMERICAN SIGN LANGUAGE AS THE OFFICIAL SIGN LANGUAGE OF THE DEAF IN ALABAMA.

Also:

SJR 46. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED SERVICE AS PRESIDENT OF THE UNIVERSITY

OF MONTEVALLO AND NAMING THE UNIVERSITY'S STUDENT
RETREAT IN HIS HONOR.

Also:

**SJR 47. COMMENDING MANDELYN KAYE HANCOCK OF
BIRMINGHAM, ALABAMA.**

GREG PAPPAS,
Clerk.

**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount,
and continuing order of business for today, which was the Bill:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

The question was on the Waggoner substitute for the deGraffenried substitute, which said substitutes are set out in the Journal of the Senate for the Thirteenth Legislative Day.

On motion of Senator Waggoner, said Waggoner substitute was laid on the table.

Yeas 25 Nays 5

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Foshee, Ghee, Hale, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom
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Nays:

Senators:

Corbett, Floyd, Langford, Lindsey, and Sanders

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Senator Mitchell offered the following substitute for the deGraffenried substitute for the Bill, SB 122, to-wit:

**MITCHELL SUBSTITUTE FOR
DEGRAFFENRIED SUBSTITUTE FOR SB 122**

**A BILL
TO BE ENTITLED
AN ACT**

To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation ombudsman program, benefit review conferences, and adjudication of claims by judges of a newly established Workers' Compensation Court; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the Department of Industrial Relations and the Alabama judicial system shall administer the Alabama Workers' Compensation Act to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Act. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Act is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes. However, even a liberality of construction does not abrogate the measure of proof or sufficiency of evidence.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Law of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the

worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of aging. The Legislature has concluded that it is extremely difficult for the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system. The establishment of a Workers' Compensation Medical Services Board as constituted in this act is considered by the Legislature to be the most appropriate mechanism for insuring that high quality medical services are provided in a cost-effective manner to employees injured in the workplace.

WORKERS' COMPENSATION COURT

Section 2. ESTABLISHMENT OF WORKERS' COMPENSATION COURT.

(a) There is hereby created the Workers' Compensation Court which shall consist of seven (7) judges. Each judge of the Court shall be appointed to a designated numbered position on the Court. The positions shall be numbered one through seven. The initial terms of the judges by position number shall expire on the following dates:

Position 1 shall expire 1-1-93;

Position 2 shall expire 1-1-93;

Position 3 shall expire 1-1-94;

Position 4 shall expire 1-1-94;

Position 5 shall expire 1-1-95;

Position 6 shall expire 1-1-95; and

Position 7 shall expire 1-1-96.

Thereafter, each position shall be filled by a judge appointed to serve a four year term.

Initial appointments to the Court and vacancies on the Court shall be filled by appointment of the Governor from a list of eligible persons chosen and submitted by the Special Workers' Compensation Selection Committee of five (5) members, to consist of:

(1) the President of the Alabama State Bar Association; (2) the President of the Alabama AFL-CIO; (3) the President of the Business Council of Alabama; (4) the Chair of the Senate Judiciary Committee; and (5) the Chair of the House Judiciary Committee, or their respective designees.

If the House or Senate shall have more than one standing committee on the Judiciary, the committee chair with the most seniority in service in the Legislature shall serve on the Special Workers' Compensation Selection Committee in the odd numbered years and the other committee chair shall serve in even numbered years.

Any person on the eligible list must certify in writing to the Committee that he is willing to serve as a judge if appointed. If he fails to do so within thirty (30) calendar days after written notification by the Committee of his placement on the list of eligibles, then his name shall be removed from said list. No more than ten (10) nor less than five (5) names shall be maintained on the list of eligibles at all times. A majority vote of the committee shall be required for a person to be selected for the eligibility list.

(b) A judge of the Court shall have been licensed to practice law in this state for a period of not less than five (5) years prior to appointment and be experienced in Workers' Compensation or administrative law. Each judge, before entering upon the duties of his office, shall take and subscribe to an oath of office and file same with the Secretary of State. Each judge shall continue to serve until his successor shall have been appointed and qualified. A judge shall be eligible for reappointment provided that he may be removed for cause by the Judicial Inquiry

Commission prior to the expiration of his term.

(c) Each judge shall receive a salary equal to that paid to a Circuit Judge of this state and shall be paid from the Workers' Compensation Administrative Trust Fund. Each judge shall devote full time to his duties and shall not engage in the private practice of law during the term in office.

(d) The Governor shall appoint from among the judges of the Workers' Compensation Court a presiding judge of that Court who shall serve for a two-year term commencing with the initial appointment beginning January 1, 1993. Any judge so appointed shall not serve more than two terms in succession. The presiding judge shall preside at all hearings held by the Court, preside at such meetings of the judges of the Court as may be necessary and perform such other supervisory duties as the needs of the Court may require. The presiding judge may designate one of the other judges to act as presiding judge in his place whenever necessary during the disqualification, disability or absence of the presiding judge. During the disqualification, disability or absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

(e) The Court shall have the authority to adopt reasonable rules and regulations within its respective areas of responsibility including the rules of procedure for the Court en banc, after notice and public hearing, for effecting the purposes of the Workers' Compensation Act. All of the judges of the Court shall be present at all meetings wherein rules and regulations are adopted or amended. All rules and regulations, upon adoption, shall be submitted to the Supreme Court, which shall either approve or disapprove them within thirty (30) days. All rules and regulations, upon approval by the Supreme Court, shall be published and be made available to the public and shall be binding in the administration of the Workers' Compensation Act.

(f) The Court is hereby designated and confirmed as a court of record, with respect to any matter within the limits of its jurisdiction, and within such limits the judges thereof shall possess the powers and prerogatives of the judges of the other courts of record of this state.

(g) The principal office of the Court shall be situated in the City of Montgomery in quarters assigned by the State Department of Finance. The Court may hold hearings in any city of this state.

(h) All county commissioners and presiding circuit judges of this state shall make quarters available for the conducting of hearings by a

judge of the Court upon request by the Court.

(i) Judges of the Workers' Compensation Court may punish for contempt.

(j) The judges of the Court may, if they deem it necessary, appoint a person to the job of Court Administrator, which person shall be paid from the Workers' Compensation Administrative Trust Fund. Such person shall, if appointed, be the Chief Administrative Officer of the Workers' Compensation Court and serve at the pleasure of the Court. He shall be appointed by a majority vote of the judges of the Court and shall be subject to the general supervision of the Presiding Judge.

Section 3. PROCEDURE FOR COMMENCEMENT AND HEARING OF CLAIMS.

(a) All claims for any compensation or benefits under the Workers' Compensation Act shall be commenced with the filing of a notice of injury with the Court. All matters pertaining to such claims shall be presented to the Court and available to an ombudsman within the Department of Industrial Relations until such time as the Court is notified in writing by a party that there is a controverted issue that cannot be resolved by the parties or that the parties have settled the claim. The Court shall within seven (7) days of the receipt of notification set the matter for hearing at the earliest available time in the appropriate judicial circuit as provided in this title. A member of the Court shall be assigned to hear a docket in each judicial circuit of the state at least once each calendar month when there has been a request for a hearing in the judicial circuit. Judges shall be assigned to the state judicial circuits on a rotating basis for the purpose of holding prehearing conferences and hearing cases. At the request of either party, a prehearing conference shall be held before the member of the Court assigned to the case within forty-five (45) days of the filing of a claimant's request for a hearing. The purpose of the prehearing conference shall be to mediate and encourage settlement of the case or determine issues in dispute. The Court shall determine the lawfulness of any claim for compensation under the Workers' Compensation Act based on a preponderance of the evidence as contained in the record of the hearing, except in cases involving injuries which have resulted from gradual deterioration or cumulative physical stress disorders, which shall be deemed compensable only upon a finding of clear and convincing proof that those injuries arose out of and in the course of the employee's employment. For purposes of this section, clear and convincing shall mean evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a

firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt.

All claims so filed shall be heard by the Judge sitting without a jury. All petitions for final orders or awards, including agreed settlements, must be approved by the Court having jurisdiction before a final order or award may be entered.

(b) The claimant at the time of filing his notice of injury shall elect where hearings by the Court shall be held, provided that if the claimant is a legal resident of the State of Alabama he shall be required to elect either the judicial circuit of the county of his legal residence at the time he sustained his injury, the judicial circuit of the county where the injury occurred or the judicial circuit of the county of the principal place of business of the employer. In the event that the claimant is not a legal resident of the State of Alabama, the necessary hearings shall be held in the judicial circuit of the county of the principal place of business of the employer, provided that if the injury occurred within the state, the hearings shall be held in the judicial circuit of the county where the injury occurred. In the event the claimant is not a legal resident of the State of Alabama and the accident resulting in injury occurred outside the territorial limits of the state, then the hearings shall be held in the judicial circuit of the county in this state wherein the contract of employment was entered into. After the election has been made as provided above, all future hearings by the Court affecting the claimant's case shall be held in the judicial circuit so designated, unless the Court, upon agreement by the claimant and the employer, shall transfer such cause for hearing to any other judicial circuit agreed upon.

(c) Right to jury trial. When willful misconduct on the part of the employee is set up by the employer, the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury, the employee may demand a jury to try the issues by filing a demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to willful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up that defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his or her

attorney of record.

(d) Court deemed open at all times. For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this act, the court shall be deemed always in session.

(e) Interpleader of adverse claimants to compensation. If at any time there are adverse claimants to compensation under this article, the employer, in submitting the claim to the circuit court, may suggest in writing the claimants, and they shall be required to interplead. The court shall determine and order to which claimant or claimants compensation is justly due, and the employer, upon complying with the order, shall be released from the claims of any other claimants thereto.

(f) Discovery. Methods of discovery shall be determined and established in rules promulgated by this act and the rules established by the Alabama Rules of Civil Procedure with the limitations of pre-trial discovery as set forth below. Additionally, the following rules of discovery shall apply to worker's compensation cases:

(1) Two depositions for each side shall be permitted without leave of court, however, any additional depositions shall not be permitted without leave of court for good cause shown.

(2) Notwithstanding the limitations in (1) above, each party shall have the right to take the deposition of every other party.

(3) Interrogatories shall not be permitted without leave of court for good cause shown.

(4) Relevant and material records of the employee and employer, including but not limited to payroll records, may be admissible without testimony.

(5) Certified copies of records, documents, and affidavits shall be self-authenticating without need of testimony, provided, however, certified sealed copies of records of medical treatment and charges therefor, whether from a physician, hospital, clinic, or other provider, shall be admitted into evidence in accordance with Alabama Rules of Civil Procedure, Rule 44(h), without further need for authenticating testimony. Copies of records obtained by one party shall be furnished by certified mail to the other party not less than 14 days prior to trial, unless the party offering the records can establish unusual circumstances justifying their admission despite the failure to make the exchange.

It is the intent of this section that limited discovery shall be available.

Section 4. APPELLATE PROCEDURES.

(a) All the evidence pertaining to each case, except agreed upon orders, shall, insofar as may be possible, be heard by the judge initially assigned to the case. Upon the completion of such hearing or hearings, the judge hearing the cause shall make such order, decision or award as is proper, just and equitable in the matter. Either party feeling himself aggrieved by such order, decision or award shall, within ten (10) days, have the right to take an appeal from the order, decision or award of the judge to the Workers' Compensation Court sitting en banc. Such appeal shall be allowed as a matter of right to either party upon filing with the Court a notice of such appeal. In each case filed in the Court en banc, and at the time of filing same, the appellant shall deposit with the Clerk as costs One Hundred Dollars (\$100.00) of which no rebate of any part thereof shall be made. All fees so collected shall be deposited in the Workers' Compensation Administrative Trust Fund. Such Court en banc shall consist of at least five (5) judges of the Court, none of whom shall have presided over any of the previous hearings on the claim. The Court en banc may reverse or modify the decision only if it determines that such decision was against the clear weight of the evidence or contrary to law. Upon completion of the appeal, the members of the Court sitting en banc shall issue such order, decision or award as is proper, just and equitable. Only those members participating in the hearing on appeal shall participate in the making of the order, decision or award. All orders, decisions or awards shall be approved by a majority of the members of the Court sitting en banc. Appeals shall be allowed on a question of law or a question of fact, or a mixed question of law and fact, and shall be determined on the record before the judge. Provided, when the order of the judge of the Court making an award to a claimant is appealed by the employer or the insurance carrier, interest shall be allowed on the accrued amounts of the award due from the date the award was filed, if the award is not modified or vacated on appeal.

(b) The order, decision or award of the Workers' Compensation Court shall be final and conclusive upon all questions within its jurisdiction between the parties, unless, within thirty (30) days after a copy of such order, decision or award has been sent by the Court to the parties affected, an action is commenced in the Court of Civil Appeals, to review such order, decision or award.

(c) Review. From an order or judgment of the Court of Civil Appeals, any aggrieved party may, within 42 days thereafter, appeal to

the Supreme Court and such review shall be as in cases reviewed by certiorari.

Section 5. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.
"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit The recovery which an employee may receive by action at law under article Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation' does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury, except as provided in Section 25-5-11(c).

"(2) CHILD or CHILDREN. ~~Such~~ The terms include posthumous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of ~~such~~ the deceased grandparent at the time of the accident.

"(3) DEPENDENT CHILD or ORPHAN. An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) EMPLOYER. Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays

wages directly to such the person. ~~Such~~ The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, ~~such the~~ insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, and shall not include one who regularly employs a number less than three in any business; provided, however, that ~~the~~ The inclusion of an employer's insurer within such the term shall not provide ~~such the~~ insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under the provision of Section 25-5-11. Notwithstanding any section of articles 2 and 3 the provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such the a common carrier.

"(5) PHYSICIAN. ~~Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

"(6) (5) EMPLOYEE, WORKER, WORKMEN and WORKMAN, EMPLOYEE or WORKER. Such The terms are used interchangeably, and have the same meaning throughout this chapter, and shall be construed to mean the same. ~~Such The~~ terms include the plural and all ages and both sexes. ~~Such The~~ terms include every person not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a 'workman' 'worker' or 'employee' shall, ~~where if the workman worker or employee is dead,~~ include his or her dependents dependent, as defined in this chapter, if the context so requires.

"(7) (6) WAGES or WEEKLY WAGES. Such The terms shall in all cases, ~~unless the context clearly indicates a different meaning,~~ be construed to mean 'average weekly earnings.' Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part

for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit. Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens and also includes minors who are legally permitted to work under the laws of the state.

~~"(8) (7) ACCIDENT. Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, ~~unless a different meaning is clearly indicated by the context,~~ be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

~~"(9) INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT. Without otherwise affecting either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not include a disease unless the disease results proximately from the accident.~~

"(8) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(9) ARISING OUT OF AND IN THE COURSE OF THE EMPLOYMENT. An accident arises out of and occurs in the course of the

employment when it occurs while the employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties. However, for a cumulative trauma disorder to 'arise out and in the course of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"~~(10)~~ (10) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

"~~(11)~~ (11) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

"~~(12)~~ (12) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"~~(13)~~ (13) PROVIDERS. As used herein for the purposes of this chapter, 'providers' includes medical clinic, pharmacist, dentist, chiropractor, psychologist, podiatrist, physical therapist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee receives treatment.

"~~(14)~~ (14) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(15) PREVAILING. For purposes of this chapter, the term 'prevailing' shall mean most commonly occurring reimbursements for health services within a 'district,' as defined herein, other than those provided by federal and state programs for the elderly (Medicare) and economically disadvantaged (Medicaid). 'Prevailing' shall include not only amounts per procedure code, but also commonly used adjudication rules as applied to multiple procedures, global procedures, use of assistant surgeons, and others as appropriate. For hospitals, 'prevailing' rate of reimbursement or payment shall be established by the method contained in Section 25-5-77.

"(16) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated

rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(17) HOSPITAL. As used herein for the purposes of this chapter, the term 'hospital' shall include a hospital, ambulatory surgical center, and outpatient rehabilitation centers licensed by the State of Alabama.

"(13) (18) THE WORKERS' COMPENSATION COURT. Such term shall mean the The circuit court which that would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' shall mean means a judge of said that court."

"(19) UTILIZATION REVIEW. For purposes of this chapter, 'utilization review' shall be defined as the determination of medical necessity for medical and surgical in-hospital, out-patient, and alternative settings treatments for acute and rehabilitation care. It shall include precertification for elective treatments. Concurrent review and, if necessary, retrospective review are required for emergency cases.

"(20) BILL SCREENING. For purposes of this chapter, 'bill screening' shall be defined as the evaluation and adjudication of provider bills for appropriateness of reimbursement relative to medical necessity and prevailing rates of reimbursement, duplicate charges, unbundling of charges, relativeness of services to injury or illness, necessity of assistant surgeons, adjudication of multiple procedures, number of modalities, global procedures, and any other prevailing adjudication issues that may apply.

"(21) ADJUDICATION. For purposes of this chapter, 'adjudication' means the review of claims to apply prevailing rules that adjust reimbursements for the amount of work required when multiple procedures are performed at the same time, when assisting surgeons are present, to eliminate duplicate billing from the unbundling of global fees, and to adjust for the most commonly occurring method adopted for total reimbursement.

"(22) DISTRICT. A number of appropriate areas of the state as determined by an independent actuarial consultant for the purposes of ascertaining the cost of similar treatment.

"(23) OMBUDSMAN. An individual who assists injured or disabled employees, persons claiming death benefits, employers, and other

persons in protecting their rights and obtaining information available under the workers' compensation law.

"(24) DIRECTOR. The Director of the Department of Industrial Relations."

"(25) ADMINISTRATOR. The Chief Administrative Officer of the Workers' Compensation Court."

Section 6. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the State of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this chapter ~~and, to~~. To this end, he or she shall ~~have full power to make or cause to be made~~ the necessary investigations and examinations in connection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the~~ Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears."

Section 7. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

"~~The director of the department of industrial relations~~ shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of ~~charge~~ sample copies to any employer or employee ~~such~~ the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of ~~articles~~ Articles 2 and 3 2, 3, and 4 of this chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for physicians licensed to practice medicine and for other providers shall be approved by the director and the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be

established under the provisions of Section 27-1-16, Code of Alabama 1975."

Section 8. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

~~"Every~~ An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, received by his employees in the course of their employment. Within 15 days after the occurrence of ~~such~~ the injuries and knowledge thereof by the employer, a report of the same shall be made to the department of industrial relations on forms approved by ~~said~~ the department. At the discretion of the director, reports received under the provisions of this chapter may be destroyed after 12 years."

Section 9. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. ~~Every~~ An employer ~~who accepts~~ subject to the provisions of this chapter may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, ~~or insurance association, or corporation, or association formed by employers and workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the director Commissioner of the Department of Insurance of Alabama and have been authorized by the ~~said~~ Department of Insurance to transact the business of ~~workmen's~~ workers' compensation insurance in this state and under ~~such the charter or plan.~~

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to the provisions of this chapter who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director of ~~industrial relations~~ of his or her financial ability to pay directly ~~such~~ compensation in the amount and manner and when due as provided by this chapter. ~~whereupon~~ Whereupon, the director shall authorize ~~said~~ the employer to operate as a self-insurer. ~~provided, however, that the~~

~~director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter.~~ The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to the provisions of this chapter shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) ISSUANCE, REVOCATION, ETC. ~~Whenever an employer has complied~~ Upon the employer's complying with the provisions of subsection (b) of this section relating to self-insurance, the director shall issue to ~~such~~ the employer a certificate, which shall remain in force for a period fixed by the director. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as provided in this subsection. At any time after such the revocation, the director may grant a new certificate to the employer upon his application by the employer.

"(2) APPEALS. An appeal may be taken from any ruling of the director under subsection (b) of this section ~~and or under~~ this subsection to the circuit court Workers' Compensation Court. The presiding judge shall, within ten (10) days after notification of appeal, assign a member of the court to hear the case and the matter shall be set for hearing at the earliest available time. of any county wherein the employer does

~~business. Trial in such court shall be de novo, and without a jury unless the employer demands a jury trial at the time of taking such appeal; provided, however, that the~~ The taking of any such an appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of said the court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final judgments orders for compensation that may be rendered against him the employer pending the disposition of such the appeal.

"(c) Penalties for failure to secure payment of compensation; injunctions. ~~Any~~ An employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any an~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such the~~ the compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director ~~is authorized to may~~ apply to any a court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an amount not to exceed one hundred dollars (\$100) per day. Subsequent compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment award~~ award or judgment rendered against ~~such the~~ the employer upon the risk so insured. ~~Such~~ The policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which that~~ shall become owing, on account of ~~such the~~ the policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said workman~~ worker or

~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman, worker~~, but such Such policies, however, shall contain no obligations relieving the insurance company from payment of obligations ~~when~~ if the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the State of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every~~ An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of this chapter~~ shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such the~~ insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. The Commissioner of the Department of Insurance shall convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to any filing. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days after such approval, of said rates, schedules and system of schedule or merit rating by said director the Commissioner of the Department of Insurance, he shall make or cause to be made a sufficient number of printed or typewritten copies of same for such that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's workers' compensation business in the State of Alabama, at its the carrier's last address or at the last address of its designated agent to receive the same left in writing by such carrier with said department.

~~And every such~~ The insurance carrier shall (or if ~~such insurance carrier~~ it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause ~~such the~~ rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which ~~said the~~ rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to ~~such the~~ rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file ~~said the~~ statement within the time specified above, ~~said the~~ rates, schedules, ~~or~~ and systems may be presumed by the ~~director~~ Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The ~~said director~~ Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by ~~any such an~~ insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, ~~such the~~ premium rate or schedule is excessive, ~~or~~ unreasonable, ~~or~~ discriminatory, or is inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the motor common carrier accepting the coverage of owner-operators or lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state shall affect the right of ~~any an~~ insurance corporation or ~~any a~~ mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon ~~such the~~ policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES. No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless ~~such the~~ agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the ~~director commissioner of the department of insurance of the state of Alabama.~~ But the employer and the ~~workman~~ worker may agree to carry the risks ~~covered by this chapter in conjunction with other and greater risks~~ and to provide other and greater benefits, such as additional compensation, accident, sickness, or old age insurance, or benefits, and the fact that

~~such the plan involves a contribution by the workman worker shall not prevent its validity if such the plan has been approved in writing by the director commissioner of the department of insurance of Alabama. Any~~
An employer who shall make makes any charge or deduction prohibited by this section shall be is guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer ~~shall insure to his employees~~ insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in ~~the state of Alabama~~ and approved by the ~~director commissioner of the department of insurance of the state of Alabama~~, and if the employer ~~shall post~~ posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured,; and if the employer ~~shall further file~~ files a copy of ~~such the~~ notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or ~~his the employee's dependents~~ dependent shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. ~~In case of insolvency or bankruptcy of said insurance company or in case~~ If the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under the provisions of this chapter. Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for such the excess. The return of any execution upon any a judgment of any an employee against any such an insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such the insurance company for the purposes of this chapter, and, in the event of adjudication of bankruptcy or insolvency of any such insurance company if the insurance company is adjudged to be bankrupt or insolvent by any a court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against such the employer and the insurance company jointly or severally or in any a pending proceeding against any the insurance company, and the employer may be joined at any time after such the adjudication.

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of

the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) In the event the court determines and makes a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, the provisions of Section 25-5-11.1 shall not apply to the employer. In addition to the denial of workers' compensation benefits under this act, the employer, upon such a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, may terminate the worker.

"(3) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100)."

Section 10. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) Any A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the workman worker for the provisions of benefits provided by this chapter shall himself be included in the term 'employer' and shall be subject to all the liabilities of employers under this chapter. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.

"(b) When compensation is claimed from or proceedings taken against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the workman worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts of or omissions of third persons not at

the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 11. Section 25-5-11, Code of Alabama 1975, is amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not such the party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of his death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against such the other party to recover damages for such the injury or death, and the amount of such the damages shall be ascertained and determined without regard to this chapter. ~~;~~ ~~provided, however, if such~~ If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, servant or employee of such the carrier, person, firm, association, trust, fund, or corporation, or is a labor union, or any official or representative thereof, or is a governmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, servant or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of his death, may bring such an action against any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, ~~or such labor union, or the governmental agency, or such person, or his or her personal representative,~~ only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of his death, his or her dependents, recover damages against such the other party, the amount of such the damages ~~so~~ recovered and collected shall be credited upon the liability of the employer for compensation. ~~, and if such~~ If the damages ~~so~~ recovered and collected ~~should be~~ are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of such the injury or death. To the extent of ~~any such the~~ recovery of damages against such the other, the employer shall be entitled to reimbursement for the amount of

compensation theretofore paid on account of ~~such~~ injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of ~~such~~ compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, ~~(less the amount of any reimbursement for compensation already paid),~~ divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee pursuant to the common law of Alabama, or based upon equitable principles, or otherwise as determined on a case-by-case basis by the court.

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing ~~and~~ any payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a cause of action against ~~such the~~ person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~ if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a safety guard or safety device provided by the manufacturer of the machine with knowledge that injury or death would likely or probably result from ~~such the~~ removal; provided, however, that removal of ~~such a~~ guard or device shall not be willful conduct unless ~~such the~~ removal did, in fact, increase the danger ~~of in the~~ use of the machine and was not done for the purpose of repair of the machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or.~~

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other~~ another employee or ~~other~~ another person; ~~or.~~

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such the~~ written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said the~~ willful and intentional violation. ~~Said~~ The written notice to the violating employee must state with specificity all ~~of~~ the following:

"a. The identity of the violating employee; ~~.~~

"b. The specific written safety rule being violated and the manner of the violation; ~~.~~

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, ~~.~~ and circumstances; ~~.~~

"d. That ~~such the~~ violation places the notifying employee at risk of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such the~~ willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own injury. ~~and no~~ No employee shall be held liable under this ~~paragraph section~~ for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of ~~his~~ death, ~~his dependents~~ do not file a civil action against ~~such the~~ other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such the~~ other party for damages on account of ~~such the~~ injury or death. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such the~~ employee or his or her ~~dependents~~ dependent, or in the event a proceeding is pending against the employer to require the payment of ~~such the~~ compensation, ~~such the~~ civil action may be maintained either in the name of the injured employee or, in the

name of his or her dependent in case of his death, in the name of his dependents, or in the name of the employer or the insurance carrier, and in In the event the damages recovered in such the civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making such the collection, the excess of such the amount shall be held in trust for the injured employee or, in case of his death, for his the employee's dependents. ~~In the event~~ If such the injured employee has no dependents dependent, his the personal representative, in the event of his death, may bring a civil action against such the other party to recover damages without regard to this chapter.

"(e) In any a settlement made under this section with a third party by the employee or, in ~~the~~ case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from such the third party. For purposes of the subrogation provisions of this subsection only, 'compensation' includes medical expenses, as defined in Section 25-5-77.

"(f) For the purpose of this section, ~~any~~ a carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a company or a governmental agency making a safety inspection on behalf of ~~any~~ a self-insured employer or its employees and ~~any~~ an officer, director, agent, ~~servant~~ or employee of such the company or a governmental agency.

Section 12. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.

"ELECTIVE COMPENSATION UNDER CONTRACT "OF EMPLOYMENT.

"§25-5-50.

"This article and Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employer of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; or to any an employer who regularly

employs less than three employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. Any An individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three employees in any one business; any farmer, a farm-labor employer; an employer of a domestic employee; or any a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to the provisions of this article and Article 2 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said the employer; provided further, that any an employer who has so elected to accept the provisions of this article and Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

"Notwithstanding the foregoing paragraph, any an officer of a corporation may elect annually to be exempt from coverage by filing written certification of such the election with the department of industrial relations and his the employer's insurance carrier.

"A At the end of any calendar year, a corporate officer who has been exempted, himself by proper certification from coverage, may at the end of any calendar year revoke such the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department of industrial relations and his the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of industrial relations.

"In the event that If the corporate officer election occurs elects to be exempt from coverage, such the election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm.

"This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties

involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 13. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by ~~every~~ ~~such~~ ~~the~~ employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence, ~~except, that~~. Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, ~~or~~ by the employee's intention to bring about the injury or death of himself or herself or of another, ~~or due to his own intoxication~~ ~~or~~ his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident or occupational disease after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the

course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting physical or mental conditions may void your workers' compensation benefits.' If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish such the defense."

Section 14. Section 25-5-52, Code of Alabama 1975, is amended to read as follows:

"§25-5-52.

"No Except as provided in this chapter, no employee of any employer subject to this article chapter, nor the personal representative, surviving spouse, or next of kin of any such the employee shall have any a right to any other method, form, or amount of compensation or damages for any an injury or death occasioned by any an accident or occupational disease proximately resulting from and while engaged in the actual performance of the duties of his or her employment and from a cause originating in such employment or determination thereof other than as provided in this article."

Section 15. Section 25-5-53, Code of Alabama 1975, is amended to read as follows:

"§25-5-53.

"The rights and remedies herein granted in this chapter to an employee shall exclude all other rights and remedies of said the employee, his or her personal representative, parent, dependents dependent, or next of kin, at common law, by statute, or otherwise on account of said injury, loss of services, or death. Except as provided in this article and article 2, as the case may be, of this chapter, no employer included within the terms of this chapter shall be held civilly liable for any personal injury to or death of any workman who is an employee of the employer and the employer's employee, for purposes of this chapter,

whose injury or death is due to an accident or to an occupational disease while engaged in the service or business of the employer, the cause of which accident or occupational disease originates in the employment. In addition, immunity from civil liability for all such causes of action except those based upon willful conduct shall also extend to ~~any workers' the workers' compensation insurance carrier of the employer; or any to a~~ person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer; ~~or any to an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation; and to ~~any a~~ labor union, ~~or any an~~ official, or representative thereof; to a governmental agency providing occupational safety and health services, or an employee of the agency, and to ~~any an~~ officer, director, agent, ~~servant~~ or employee of the same employer, or his or her personal representative. Nothing in this section shall be construed to relieve ~~any a~~ person from criminal prosecution for failure or neglect to perform ~~any a~~ duty imposed by law.

"For the purpose of this section, ~~any a~~ carrier, person, firm, association, trust, fund, or corporation shall include ~~any a~~ company or a governmental agency making a safety inspection on behalf of ~~any a~~ self-insured employer or its employees and ~~any an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ company or a governmental agency."

Section 16. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

~~"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from and after January 1, 1920, subject to and under the provisions of this article. Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."~~

Section 17. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of

this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, at any time to require the appointment of a guardian to make such the settlement and to receive moneys thereunder or under an award. Payments of awards made to such minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 18. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of compensation benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article and Article 4 of this chapter between themselves, and every settlement ~~made under this article~~ shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the ~~circuit court of the county~~ where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the ~~circuit court of any county~~ determines that it is for the best interest of the employee or ~~his the employee's dependents~~ dependent to accept a lesser sum and approves such the settlement. The court shall not approve any ~~such~~ settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant; and if deemed advisable, the court may hold a hearing thereon. ~~Any settlements~~ Settlements made hereunder may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon ~~such~~ settlements being approved, judgment shall be entered thereon and duly entered on the records of ~~said the~~ court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. ~~The costs of the proceedings shall not exceed \$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local.~~ All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that such the payments shall not be construed as an admission of liability but shall be without prejudice."

Section 19. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of ~~such~~ the average weekly earnings per week. This compensation shall be paid during the time of ~~such~~ the disability, but at ~~such~~ the time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of~~ For temporary partial disability, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of ~~such~~ the disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such~~ the compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such~~ the former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such~~ the new employment, and until he or she gives ~~such~~ the affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which ~~such~~ the compensation is being paid may also at any time demand of

~~such~~ the employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such~~ the affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such~~ the affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such~~ the disability. In cases included in the following schedule, the compensation shall be $66 \frac{2}{3}$ percent of the average weekly earnings, during the number of weeks set out in the following schedule:-

"1. For the loss of a thumb, 62 weeks.

"2. For the loss of a first finger, commonly called the index finger, 43 weeks.

"3. For the loss of a second finger, 31 weeks.

"4. For the loss of a third finger, 22 weeks.

"5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.

"6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such~~ the thumb or finger, and compensation shall be paid at the prescribed rate during one half of the time specified above for ~~such~~ the thumb or finger.

"7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

"8. For the loss of a great toe, 32 weeks.

"9. For the loss of any of the toes other than the great toe, 11 weeks.

"10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed

above for ~~such~~ the toe.

"11. The loss of two or more phalanges shall be considered as the loss of an entire toe.

"12. For the loss of a hand, 170 weeks.

"13. For the loss of an arm, 222 weeks.

"14. For the loss of a foot, 139 weeks.

"15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"16. For the loss of a leg, 200 weeks.

"17. For the loss of an eye, 124 weeks.

"18. For the complete and permanent loss of hearing in both ears, 163 weeks.

"19. For the complete and permanent loss of hearing in one ear, 53 weeks.

"20. For the loss of an eye and a leg, 350 weeks.

"21. For the loss of an eye and one arm, 350 weeks.

"22. For the loss of an eye and a hand, 325 weeks.

"23. For the loss of an eye and a foot, 300 weeks.

"24. For the loss of two arms, other than at the shoulder, 400 weeks.

"25. For the loss of two hands, 400 weeks.

"26. For the loss of two legs, 400 weeks.

"27. For the loss of two feet, 400 weeks.

"28. For the loss of one arm and the other hand, 400 weeks.

"29. For the loss of one hand and one foot, 400 weeks.

"30. For the loss of one leg and the other foot, 400 weeks.

"31. For the loss of one hand and one leg, 400 weeks.

"32. For the loss of one arm and one foot, 400 weeks.

"33. For the loss of one arm and one leg, 400 weeks.

"34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, $66 \frac{2}{3}$ percent of the average weekly earnings for such the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of such the temporary total disability shall not be deducted from the number of weeks payable for such the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said specified in the schedule for such injury~~ shall be in lieu of all other compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of such the member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to

or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of ~~such~~ the refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, ~~such~~ the refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In For~~ For all other ~~cases of~~ permanent partial disability disabilities not above enumerated, the compensation shall be $66 \frac{2}{3}$ percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. In making this evaluation, the court shall consider the permanent partial restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. When If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such~~ the temporary total disability shall be deducted from the number of weeks payable for ~~such~~ the permanent partial disability. Compensation shall continue during disability, but not, ~~however~~, beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in ~~subdivision~~ subsection (a)(2) of this section.

"i. If, on or after the date of maximum medical improvement, except for scheduled injuries as provided in Section 25-5-57(a)(3), an injured worker returns to work at the same employer at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to his or her physical impairment

and the court shall not consider any evidence of vocational disability. Notwithstanding the foregoing, within a period of time not to exceed 416 weeks from the date of injury, if the employee establishes that he or she lost his or her employment permanently through no fault of his or her own, the employee may petition within two years thereof for a hearing before the court and the court may consider at that time evidence as to the earnings the employee is or may be able to earn in his or her partially disabled condition. In making this evaluation, the court shall consider the permanent restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. Nothing contained in this section shall be construed as having any effect upon any evidentiary issues or claims made in third party actions pursuant to Section 25-5-11.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive 66 2/3 percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; provided, that, Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during such the permanent total disability, as defined in said paragraph d. of this subdivision. Payment of such the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. Such The payments, with the approval of the circuit judge or by the agreement of the parties, may be made monthly, quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the ~~circuit court which~~ that awarded or approved compensation for permanent total disability to alter, amend, or revise the award or approval of ~~such the~~ compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the disability from which the employee suffers is no longer a permanent total

disability and, if the court is so satisfied after a hearing, it shall alter, amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to ~~a circuit~~ the court that would have had jurisdiction to award ~~such the~~ compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of ~~such the~~ benefits, the employee may, within two years of the last payment, petition the court to reinstate ~~such the~~ benefits and, upon a showing that ~~such the~~ permanent total disability still exists, shall be entitled to have ~~such the~~ benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public institution, ~~then~~ no compensation shall be payable unless ~~he has~~ the employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of ~~such the~~ person so dependent, during dependency, in the manner so ordered by the court, while the employee is an inmate in ~~such the~~ institution; ~~provided, however, that nothing.~~ Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents~~ dependent named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said the~~ employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said the~~ public institution the normal and customary charge for the services rendered by ~~said the~~ public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of ~~said the~~ inmate or not. ~~In the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, ~~said workmen's~~ the workers' compensation payments shall be directly paid to ~~said the~~ guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie evidence of permanent total disability ~~and but~~ shall not constitute the

sole basis on which an award of permanent total disability may be based; provided, that any employee whose disability results from ~~such~~ the injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"e. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he~~ the employee received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury,~~ he the employee shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"h g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in the same employment, he or she shall not at the same time be entitled to

compensation for both injuries, unless the later injury is a permanent injury, ~~such~~ as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and Article 2 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to ~~the provisions of~~ paragraph e. of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event If~~ an employee who is receiving benefits for permanent total disability shall, as a result of physical or vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from ~~such the~~ employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of ~~such the~~ difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period; and.

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; and.

"3. No payments shall be due for any week the employee earns as much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such the~~ permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event If~~ an employee who is receiving benefits for permanent total disability shall, as the result of physical or vocational rehabilitation, accommodation, or

otherwise, obtain gainful employment with an employer other than with his or her former employer, he or she shall, upon securing such employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at such the new employment; and, until he or she gives such the affidavit, the compensation for permanent total disability shall cease. The employer for whom such the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of such the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon such demand, fails or refuses to make and furnish such the affidavit, his or her rights to compensation shall cease until such the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such the injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately ~~from the injury~~. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately, from an injury on account of which compensation is being paid to an employee.~~

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of his the employee's employment, it must be definitely proven to the satisfaction of the court all of the following:

- "1. That there was an injury resulting in hernia,

"2. That the hernia appeared suddenly₇.

"3. That it was accompanied by pain₇.

"4. That the hernia immediately followed an accident₇ and₇.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral₂ or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said~~ the hernia, no compensation will be allowed during the time ~~such~~ the refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in ~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said~~ the operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall ~~mean the earnings~~ be based on the wages, as defined in Section 25-5-1(6) of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such~~ the period, although not in the same week, then the earnings for the remainder of ~~such~~ the period, although not in the same week, then the earnings for the remainder of ~~such~~ the 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no ~~such~~ person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances

of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan, retirement plan, or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, administrative agency, arbitration, or settlement, provided however, social security payments shall not be included herein.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period, it shall be allowed a setoff in weeks against the compensation owed under this article. For the purposes of this section, voluntary contributions to a Section 125-cafeteria plan for a disability or sick pay program shall not be considered as being provided by the employer."

Section 20. Section 25-5-59, Code of Alabama 1975, is amended to read as follows:

"§25-5-59.

"(a) ~~In cases of temporary total or temporary partial disability, no compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.

"(b) Compensation shall begin with the fourth day after disability, and, ~~in the event if~~ the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to ~~such~~ the unpaid installment an amount equal

to ~~10~~ 15 percent thereof, which shall be paid at the same time as, but in addition to, ~~such~~ the installment.

Section 21. Section 25-5-60, Code of Alabama 1975, is amended to read as follows:

"§25-5-60.

"In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents $66 \frac{2}{3}$ percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower, the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial

dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of 16 2/3 percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or marriage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"g. If, however, the deceased employee at the time of his or her death has no dependents as herein defined, then within 60 days of his or her death, the employer shall pay a one-time lump sum payment of seven thousand five hundred dollars (\$7,500) to the deceased worker's estate.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of ~~said~~ the partial dependents by ~~such~~ the death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 22. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has

another dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to such children the dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of such children the dependent. Payment to such that person shall discharge the employer from any further liability."

Section 23. Section 25-5-67, Code of Alabama 1975, is amended to read as follows:

"§25-5-67.

"In all cases where If death results to an employee caused by as the result of an accident or an occupational disease arising out of and in the course of his the employee's employment, the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 three thousand dollars (\$3,000). In case If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after such reasonable notice to interested parties as the court may require."

Section 24. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

"(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.

"(b) (a) With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state as determined by the director of industrial relations (, rounded to the nearest dollar), pursuant to subsection (c) (b) of this section and, in any event, no more than 100 percent of such the average weekly wage; except that. Notwithstanding the foregoing, the maximum compensation payable for permanent partial disability shall be no more than the lesser of \$220.00 two hundred twenty dollars (\$220) per week or 100 percent

of ~~such~~ the average weekly wage.

"~~(c)~~ (b) For the purpose of this section, the average weekly wage of the state shall be determined by the director of ~~of industrial relations~~ as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department of ~~of industrial relations~~ for the preceding calendar year shall be divided by the average monthly number of insured workers ~~6~~, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12). The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If ~~such~~ the determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after ~~such~~ the determination is made.

"~~(d)~~ (c) The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection ~~(c)~~ (b) of this section results in an increase or decrease of ~~\$2.00~~ two dollars (\$2) or more in the amount of either the maximum or minimum benefit.

"~~(e)~~ (d) In no event, except as provided for permanent total disability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date of the accident.

"~~(f)~~ (e) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 25. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the

actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate or maximum schedule of fees as established herein of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and ~~his~~ the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. ~~In the event~~ If surgery is required, and if the employee is dissatisfied with the designated surgeon, he or she may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing rate or the maximum schedule of fees as established herein. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation centers licensed by the State of Alabama, the prevailing rate shall be negotiated with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this act. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of the effective date of this act. For those non-participating hospitals the prevailing rate shall be determined by a committee. In the first year following the effective date of this act, the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-par-

participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If following the first year after the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. In case If an insurer of the employee or a benefit association has paid or is liable for such the employee's medical, surgical, and hospital service or for a part thereof, or in case if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required in such case to pay any part of such the expense, unless said; If the benefits are insufficient to pay all such the employee's expense, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such the services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) The If requested to do so by the employer, the injured employee must shall submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer, but the employee shall have the right to have a physician of his or her own selection present at such the examination, in which case the employee shall be liable to such the physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to furnish under the provisions of this chapter, his the employee's right to compensation shall be suspended and no compensation shall be payable for the period of such the refusal. Any A physician whose services are furnished or paid for by the employer, or any a physician of the injured

employee who treats or makes or is present at any examination of ~~any an~~ injured employee may be required to testify as to any knowledge obtained by him or her in the course of ~~such the~~ treatment or examination as ~~same the treatment or examination~~ related to the injury or the disability arising therefrom. ~~Any such~~ The physician shall, upon written request of the injured employee or his or her employer and without consent of or notice to the employee or employer not making ~~such the~~ request, furnish ~~such the~~ injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the ~~same~~ autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any A~~ hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to ~~such the~~ treatment of the injured employee. ~~Such The~~ copy may be furnished without the consent of or notice to the employee or employer not making ~~such the~~ request. ~~Any A~~ physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any a~~ claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation ~~facility or institution recommended by a vocational rehabilitation specialist, which facility or institution who~~ shall be qualified to render competent vocational rehabilitation service. If an employee who is unable in the opinion of the treating physician to return to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost of ~~such the~~ rehabilitation shall be borne by the employer. ~~Such The~~ cost, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the~~

employer's request shall result in loss of compensation for each week of the period of refusal.

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal shall result in loss of compensation for the period of refusal.

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution.

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel.

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim.

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance. Claim reimbursement forms for physicians licensed to practice medicine shall be approved by both the director and by the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be established under the provisions of Section 27-1-16, Code of Alabama 1975.

"If the employer or insurer responsible for payment of the claim fails to add the additional 10 percent to the claim as required by this section, the director shall assess a civil monetary penalty in the amount of \$500.00 for each such failure against the responsible party, payment of which must be made to the director within 30 days of the notice of assessment. In addition, the person, firm, corporation, or partnership providing the medical service for which payment has been delayed beyond the period specified in this section shall be entitled to recover from the employer or insurer responsible for payment of such claim in the circuit or district courts of this state the full amount of the claim, plus the 10 percent penalty, plus liquidated damages in the amount of \$100.00 for each such claim plus a reasonable attorney's fee to be approved by the court."

Section 26. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

~~"Every~~ For purposes of this article only, an injured employee or ~~his~~ the employee's representative ~~shall~~, within five days after the occurrence of an accident, ~~shall~~ give or cause to be given to the employer written notice of the accident, ~~and the employee, if he fails to give such notice,~~ if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article ~~and article 2 of this chapter~~, unless it can be shown that the party required to give ~~such~~ the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless ~~such~~ the written notice is given within 90 days after the occurrence of the accident or, ~~where~~ if death results, within 90 days after the death."

Section 27. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, not involving cumulative physical stress, all claims for compensation under this article ~~and article 2 of this chapter~~ shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article ~~and article 2 of this chapter~~ or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In cases involving personal injury due to cumulative physical stress, compensation under this article shall be forever barred unless within two years after the date of the last exposure to the condition causing injury one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In cases involving claims for lost earning capacity under Section 25-5-57(a)(3)1., following termination of employment as outlined therein, compensation under this article and Article 4 shall be forever barred unless brought within two years of the termination. In case of death, all claims for compensation shall be forever barred unless within two years after death, when the death results proximately from the accident within three years, the parties shall have agreed upon the compensation under this article ~~and article 2 of this chapter~~, or unless within two years after ~~such~~ the death one of the parties shall have filed a verified complaint as provided in ~~section~~ Section

25-5-88. Where, however, payments of compensation as distinguished from medical or vocational payments have been made in any case, said limitations shall not take effect begin to run until the expiration of two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective two years from the date when such the incapacity ceases."

Section 28. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No such commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's dependents dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making such the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 29. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of any an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to any savings a bank or trust company of this state or any a national bank doing business in this state to be approved and designated by the court, and such the sum, together with all interest thereon, shall thereafter be held in trust for the employee or dependents dependent of the employee, who shall have no further recourse against the employer. The payment of such the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the clerk of the circuit court, shall operate as a satisfaction of

said the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from said the fund a reasonable compensation for acting as such the trustee, which compensation shall be fixed by the court in the order making such the designation. Payments from said the fund shall be made by the trustee in the same amounts and at the same time as are required in this article of the employer until said the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents dependent of the deceased employee as the case may be. In the event If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance remaining in said the bank or trust company after such the termination should be returned by them to the employer, his or her successor, or assigns."

Section 30. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of any an installment, the owner or interested party may, upon the expiration of 30 days from said the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the judgment award or award settlement agreement by ascertaining the cash or present value of same the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; unless however, the defaulting employer enters may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the circuit judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. Said The bond shall be recorded upon the minutes of the circuit court.

"(b) (2) Claims for compensation, or awards, or judgments, or agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. There shall be no right to waive this exemption."

Section 31. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

~~"No~~ Unless otherwise provided in this chapter, no part of the compensation payable under this article and Article 4 of this chapter shall be paid to attorneys an attorney for the plaintiff claimant for legal services, unless, upon the application of the plaintiff to a judge of the circuit court, such the judge shall order or approve of the employment of an attorney by the plaintiff; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff for his or her legal services and the manner of its payment, but such the fee shall not exceed 15 percent of the compensation awarded or paid."

Section 32. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide any needed technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the Workers' Compensation Division of the Department of Industrial Relations.

Section 33. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.
"COMPENSATION FOR OCCUPATIONAL
DISEASES GENERALLY.

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than including~~ occupational pneumoconiosis and occupational exposure to radiation as defined in ~~articles 5 and 7, respectively, of this chapter~~ subsections 2 and 3, respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, (including, but not limited to, loss of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of such the trade, process, occupation, or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivisions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in

general.

"~~(2)~~ (5) CONTRACTION OF AN OCCUPATIONAL DISEASE. Such This term shall include any aggravation of such the disease without regard to the employment in which the disease was contracted."

Section 34. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

"(a) ~~Where~~ If compensation is payable ~~under this article~~ for an occupational disease other than pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of ~~said~~ the disease. The employer who is liable shall not be entitled to contribution from any other employer of such the employee.

"(b) If compensation is payable for pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease and, in addition, any employer who furnished workers' compensation coverage during this period."

Section 35. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, ~~all claims~~ a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within ~~one year~~ two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within ~~one year~~ two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In case of death, ~~all claims for compensation~~ the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupational disease, as defined in this article, and death occurs within three years of the date of the injury, as hereinafter defined, ~~and unless within one year after such death~~ the parties shall have agreed upon the compensation under this article, or unless within ~~one year~~ two years after ~~such~~ death, one of the parties shall have filed a verified complaint as provided

in Section 25-5-88. ~~Where~~ If, however, payments of compensation have been made ~~in any case, said~~ the limitations as to compensation shall not take effect until the expiration of ~~one year~~ two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured employee, or his or her dependents dependent, to perform or cause to be performed any act required within the time ~~in this section~~ specified in this section, the period of limitation in any ~~such~~ case shall be extended to become effective ~~one year~~ two years from the date when ~~such~~ the incapacity ceases. No agreement, express or implied, to shorten or to extend ~~said~~ the limitations shall be valid or binding on either of the parties ~~when said~~ if the employment, at the time of ~~said~~ the exposure, is or was subject to ~~the provisions of this article. The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.~~

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 36. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall ~~be no~~ not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he or she is entitled to ~~such~~ the benefits."

Section 37. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.
"ALABAMA ~~WORKMEN'S~~ WORKERS' COMPENSATION
"SELF-INSURERS GUARANTY ASSOCIATION.

"§25-5-250.

"There is created a nonprofit corporation to be known as the 'Alabama ~~Workmen's~~ Workers' Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of ~~workmen's~~ workers' compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 38. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for ~~workmen's~~ workers' compensation as provided in ~~section 25-5-8(b), as amended,~~ Article 1, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 39. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 40. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"(a) (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the ~~Workmen's~~ Workers' Compensation Act Law, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights

of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

~~"(b) (2) It shall be the duty of the~~ The department of industrial relations ~~to shall~~ determine insolvency of any self-insurer employers, and ~~to shall~~ notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

~~"(c) (3) The director of the department of industrial relations,~~ or his or her representative, will shall at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, he or she shall inform the board of directors, and after consultation with them, he or she shall set the amount which he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

~~"(d) (4)~~ The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all ~~such~~ claims and expenses of administration.

~~"(e) (5)~~ If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."

ESTABLISHMENT OF OMBUDSMAN PROGRAM

Section 41. (a) The Department of Industrial Relations shall establish an Ombudsman Program to assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under the Workers' Compensation Law.

(b) Ombudsmen shall meet with or otherwise provide information to injured or disabled employees, investigate complaints and communicate with employers, insurance carriers and health care providers on behalf of injured or disabled employees.

(c) Ombudsmen shall be merit system employees and demonstrate familiarity with the Workers' Compensation Law. The ombudsman shall not be an advocate for any person who shall assist a claimant,

employer, or other person in any proceeding beyond the benefit review conference, but may at all times provide appropriate information regarding this act and its rules and regulations.

(d) Each employer shall notify his or her employees of the ombudsman's service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe clearly the availability of the ombudsman on the first report of accident form required by this act. The ombudsman shall give each employee with a lost-time accident claim written notice of workers' compensation assistance that is available. The notice shall include a toll-free phone number for employees to reach an ombudsman.

(e) Ombudsmen may conduct benefit review conferences. A benefit review conference may be held between the parties involved in a dispute over any claim arising after January 1, 1993. The director shall institute and maintain an education and training program for ombudsmen. The ombudsmen shall be trained in the principles and procedures of dispute mediation and the director may consult or enter into contracts with the federal mediation and conciliation service or other appropriate organizations to accomplish this purpose.

(f) In conducting review conferences, the ombudsman shall:

(1) Mediate disputes between the parties and assist with the claim consistent with this act and the policies of the department.

(2) Inform all parties of their rights and responsibilities under this act, especially in cases in which either party is not represented by an attorney or other representative.

(3) Ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in cases in which the employee is not represented by an attorney or other representative.

(g) An ombudsman may reschedule a benefit review conference if he or she determines that available information pertinent to the resolution of disputed issues is not produced at the benefit review conference.

(h) The ombudsman may not take testimony but may direct questions to an employee, an employer, or a representative of an insurance carrier to supplement or clarify information in a claim file.

- (i) The ombudsman may not make a formal record.

Section 42. A benefit review conference is a nonadversarial, informal dispute resolution proceeding designed to:

- (1) Explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights.

- (2) Discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues.

- (3) Mediate and resolve disputed issues by mutual agreement of the parties in accordance with this act and the policies of the department.

Section 43. (a) A dispute may be resolved either in whole or in part at the benefit review conference. If the conference results in the resolution of some of the disputed issues by mutual agreement or in a settlement, the ombudsman shall reduce the agreement or the settlement to writing. The ombudsman and each party or the designated representative of the party shall sign the agreement or settlement. A settlement reached hereunder shall, unless otherwise provided herein, be effective on the date the settlement is signed unless one of the parties submits the settlement to the court for approval as provided in this chapter.

- (b) An agreement signed pursuant to this section shall be binding on all parties through the final conclusion of all matters relating to the claim, unless within 30 days after the agreement is signed or approved the court on a finding of fraud, newly discovered evidence, or other good cause, shall relieve all parties of the effect of the agreement.

- (c) If the dispute is entirely resolved at the benefit review conference, the ombudsman shall prepare a written report that includes:

- (1) A statement of each resolved issue.

- (2) The ombudsman's recommendations regarding the payment or denial of benefits.

- (3) A settlement with regard to an award of attorney fees for the claimant's attorney which shall be in accordance with the amount as provided by Section 25-5-90.

- (4) No permission of the court is required by an attorney to rep-

resent any party before an ombudsman.

(d) If there is a dispute as to which of two or more insurance carriers is liable for compensation for one or more compensable injuries, the ombudsman may issue an interlocutory order directing each insurance carrier to pay a proportionate share of benefits due pending a final decision on liability. The proportionate share shall be determined by dividing the compensation due by the number of insurance carriers involved.

(e) On final determination of liability, any insurance carrier that has been determined not to be liable for the payment of benefits is entitled to reimbursement from the share paid by the insurance carrier that has been determined to be liable.

(f) The ombudsman shall file the signed agreement and the report with the Department of Industrial Relations.

Section 44. (a) The director may prescribe rules and regulations for the purpose of conducting continuing education seminars for all personnel associated with workers' compensation claims and to collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report must be in the form and reported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting same from the Department of Industrial Relations.

(d) The director shall appoint appropriate advisory committees on workers' compensation matters, including an advisory committee consisting of three administrators who are members of the Alabama Hospital Association, an advisory committee consisting of three chiropractors who are members in good standing with the Alabama State Chiropractic Association, who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association, an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be

selected by the director from nominations submitted by the Alabama Pharmaceutical Association, and also an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the state of Alabama, including but not limited to, the Alabama Physical Therapy Association. The committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. The committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this act. The committee shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

(e) The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the Ombudsman Program.

Members of the advisory committee shall receive State of Alabama per diem and mileage expense which shall be paid by the Department of Industrial Relations.

(f) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this act. The director shall con-

duct field audits as necessary to assist the private sector to gain compliance with the legislative intent. The department shall develop administrative rules to facilitate implementation and continuity of the legislative intent of this act. The director shall not establish the prevailing rate of payment or reimbursement, but may collect data which are construed to be statistically significant as defined by an independent, disinterested consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting and shall be updated annually. The director shall contract with an independent firm to create a statistically valid data base from which prevailing rates of reimbursement or payment shall be ascertained. Except as otherwise provided herein, the prevailing rate of reimbursement or payment for medical services provided under this act shall be effective 30 days after the prevailed rate of reimbursement or payment is discovered, but in no event sooner than six months from the effective date of this act.

(g) Insurance carriers and self-insurers, individual and group, are required to make appropriate payment for services provided under this act. Unless otherwise provided in this act, an insurance carrier or self-insurer, individual or group, shall not pay more than the applicable prevailing rate of reimbursement for medical services. Insurance carriers and self-insurers, individual and group, shall have utilization review and medical bill screenings. Utilization review and bill screening shall be performed by qualified individuals or entities to insure the integrity of such services and the quality of cost containment. Further, it is the express legislative intent of this act to ensure that the highest quality health care is available to employees who become injured or ill as the result of employment, at an appropriate rate of provider reimbursement. All insurers, claims adjusters, self-administered employers, and any entity involved in the administration or payment of workers' compensation claims are mandated to implement utilization review and bill screening for health services provided to employees covered under this act. In this regard, employers' liability for reimbursement shall be limited to the prevailing rate for similar treatments in the district where the employee receives services. The State of Alabama shall be divided into a number of appropriate districts as determined by the independent consultant. Further, all services will be reviewed by utilization review for medical necessity and bills for such services screened for appropriateness of charges. Services provided that are deemed not medically necessary are not reimbursable and the employer is held harmless. In no event is the employee responsible or held liable for any charges associated with an authorized workers' compensation claim. To ensure compliance of providers, insurance carriers, and self-insurers, the director may provide by rule for the review and audit of insurance carriers and self-insurers, individual and group, of payments for medical ser-

vices. The director may maintain a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, treatment patterns, and adjudication methods for use in administering this act.

(h) Health care providers, claims payors, and insurers operating in Alabama shall, at the director's request, provide the director such data as he or she deems necessary to evaluate costs and quality and shall be provided in the form and content to the director's specifications and in a manner deemed timely by the director. The director may gather from health care claims intermediaries that operate in Alabama any claims data related to diagnoses and procedures encountered in the treatment of workers'-compensation-type injury and illness in Alabama. The director shall also gather data from hospitals and other providers of health services relating to quality of care and outcome of treatment. Results from all data gathered shall be made available to employers or their representatives for use in decisions regarding the direction of care or to determine appropriateness of reimbursement.

(i) Beginning immediately and to be completed within six months, the director may engage an independent firm to identify the initial costs for the program. These initial expenses shall include, but not be limited to, the establishment of a data base to determine prevailing rates, and the conducting of cost analysis for appropriate reimbursement rates to hospitals and other facilities.

(j) A person who performs services for the director pertaining to the policies of any advisory committee or board is immune from civil liability against any claim arising out of or related to any decision made in good faith, and without malice, and predicated upon information which was then available to the person. Immunity from liability under this section does not apply to a person providing medical treatment to an injured employee.

(k) Notwithstanding any other provision of this section to the contrary, it is the intent of this section that all payments for medical services rendered by physicians as defined in Section 46 of this act shall be governed exclusively by the provisions of Section 49 of this act and shall not be subject to any other provision of this act relating to prevailing rate of reimbursement, and that any and all utilization review, bill screening, medical necessity determinations or audits which relate to the services of physicians as defined in Section 46 of this act shall only be conducted under and in accordance with policies, guidelines or regulations approved by the Workers' Compensation Medical Services Board under the provisions of Section 48 of this act.

(l) Notwithstanding the provisions of subsections (e), (f), (g), (h) and (i) above, neither the director nor any person, firm, corporation, or organization under contract with or acting on behalf of the director shall be authorized to conduct any field audit or to collect from any source any data on medical charges, actual payments, treatment plans, treatment patterns, or adjudication methods concerning any physician licensed to practice medicine in this state, it being the intent of this act that any such activities shall be within the authority of the Workers' Compensation Medical Services Board.

Section 45. (a) All letters, reports, communications, and other matters, written or oral, from employer or employee to each other, to the director, any of his or her agents, representatives, or employees, or to any official or board functioning under this act, which have been written, sent, delivered, or made in connection with the requirements and administration of this act, shall be absolutely privileged. Information obtained from the above mentioned matters shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or open to public inspection in any manner. Any person violating this section shall be fined not less than twenty dollars (\$20) nor more than two hundred dollars (\$200), or imprisoned for not longer than 30 days, or both.

(b) The director may make summaries, compilations, photographs, duplications, or reproductions of any records as he or she may deem advisable for the effective and economical preservation of the information contained therein. The documentation, duly authenticated, shall be admissible in any proceeding under this act if the original record or records would have been admissible therein.

(c) The director may upon specific request therefor, furnish to any public agency a workers' compensation record in his or her custody, if the agency makes payment of a reasonable cost therefor.

(d) At his or her discretion, the director may release information to institutions of higher education, or a federal government corporation upon payment of a reasonable cost therefor, for the purpose of making economic analyses. The institution or federal government corporation must agree in writing that information so obtained shall not be published or released by it to any person in a manner to permit the identification of any specific individual or employing unit.

(e) The director may afford reasonable cooperation with any agency of the United States or any state agency charged with the administration of any workers' compensation laws.

(f) The director may upon specific request release a workers' compensation record or information therein to any public official or to any law enforcement officer if the release is deemed by the director to be necessary for the performance of the official's or officer's duties and upon payment of a reasonable cost therefor in accordance with any regulations the director may prescribe.

(g) Any person who willfully makes a false statement or representation to obtain any information under this section, either for himself or herself or for any other person, who uses any information for any purpose other than in the performance of his or her official duties, or in any other manner misuses the information, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than three nor more than 12 months, or by both fine and imprisonment.

WORKERS' COMPENSATION MEDICAL SERVICES BOARD

Section 46. For the purposes of this new article the following words and phrases have the following meanings:

(1) BOARD. The Workers' Compensation Medical Services Board.

(2) MEDICAL or MEDICAL SERVICES. Any and all medical or surgical services provided by physicians under this new article.

(3) PHYSICIAN. A doctor of medicine or doctor of osteopathy licensed to practice medicine.

Section 47. There is established a Workers' Compensation Medical Services Board composed of five physicians licensed to practice medicine in the State of Alabama who shall be appointed by the Director of the Department of Industrial Relations. The initial board shall be selected from physicians who are members of the Medical Association of the State of Alabama from a list submitted by the association.

Members of the board shall serve terms of five years. In order that the appointments be staggered, one member shall serve an initial term of six years; one member shall serve an initial term of two years; one member shall serve an initial term of three years; one member shall serve an initial term of four years; and the remaining member shall serve an initial term of five years. Thereafter, successors shall be appointed by the director from among a list of three nominees submitted

by the Medical Association of the State of Alabama to serve full five-year terms. A member of the board shall continue to serve beyond the expiration of his or her term of office until his or her successor is legally appointed. Members of the Workers' Compensation Medical Services Board shall be eligible to serve two five-year terms of office in addition to an initial or unexpired term of less than three years, but shall not serve thereafter. Members of the board shall be entitled to receive per diem at the rate of one hundred dollars (\$100) per day for each day or portion thereof spent in the performance of the duties of their office and in addition, shall be reimbursed for expenses of travel in the same manner as employees of the State of Alabama.

The Workers' Compensation Medical Services Board shall function as a part of the State Department of Industrial Relations and shall have the authority, duties, and responsibilities as prescribed in this act. The board shall meet quarterly at a time and place designated by the chairman, and may meet more frequently at the call of the chairman. The board shall elect one of its members as chair who shall serve a term of one year. The board may adopt rules governing its own proceedings. The department shall provide the board with necessary meeting and office space, secretarial and clerical support, reimbursement for travel expenses and per diem as specified in this act. Upon approval of the director, additional funding as required by the board for the employment of consultants, attorneys, and other professional staff necessary to accomplish the purposes and objectives stated in this act may be provided.

Section 48. The board shall exercise general supervision in all matters related to the provision of medical services provided by physicians as defined in this new article rendered to workers under this act. The duties of the board shall include, but are not limited to, the following:

- (1) Study, develop, and implement any necessary and reasonable guidelines for medical services and physician care provided by physicians as defined in this new article, and medical necessity determinations for medical services under this new article.

- (2) Study, design, and implement standardized uniform claims processing forms and forms for the reporting of medical information to employers and insurance companies by physicians as defined in this new article.

- (3) Study, devise, create, and implement a dispute resolution system for medical services provided by physicians as defined in this new article. The decision of the board shall constitute final administrative

action, subject only to judicial review under the Alabama Administrative Procedure Act.

(4) Study, devise, and develop a uniform system of utilization review and quality assurance which may be recommended to the Director regarding medical services provided by physicians as defined in this new article and provided to workers herein.

(5) Address and give consideration to those matters referred to it by the director.

(6) The board shall contract with physicians, health care providers, professional associations of physicians, and health-related organizations to provide to the board consultation, and research and development expertise in discharging its duties and responsibilities under this new article. Any contract entered into by the board shall be approved as are other state contracts.

(7) The board may establish, by regulations promulgated by the department, regional committees of physicians appointed by the board to perform any duties and responsibilities specified by the board in programs established for the delivery of medical services under this act. Members of the regional committees shall be physicians as defined in this new article and shall serve at the pleasure of the board. Physicians as defined in this new article serving as members of the regional committees as constituted under this section shall be granted the same immunities as provided to members of the board under this act and existing state law.

(8) Implementation of this section shall be governed by and subject to the Alabama Administrative Procedure Act. Rules and regulations relating to the duties and authority of the board, enumerated herein, may be promulgated only with the consent of both the director and the board.

Section 49. Within 60 days from the effective date of this act, but not before April 30, 1992, the board shall submit to the Governor an initial schedule of maximum fees for medical services covered by this new article, which schedule shall become effective immediately upon submission to the Governor. The initial schedule of maximum fees shall be established by the board in the manner prescribed in this section. The fee for each service in the schedule shall be exactly equal to an amount derived by multiplying the preferred provider reimbursement customarily paid on April 15, 1992, by the largest health care service plan incorporated pursuant to Sections 10-4-100 to 10-4-115, inclusive,

Code of Alabama 1975, by a factor of one point one zero (1.10), which product shall be the maximum fee for each such service. In addition the board may submit to the Governor for approval on or after July 1, 1992, a revised schedule of selected fees for medical services covered by this new article, which fees shall not exceed the fees established in the initial schedule of fees by more than five percent.

The revisions to the initial schedule of maximum fees submitted by the board to the Governor for approval on or after July 1, 1992, but not individual fees or separate portions thereof, shall be subject to acceptance or rejection by the Governor. If the revisions to the initial schedule of maximum fees are rejected by the Governor, they shall be referred to the board for further consideration and the initial schedule of maximum fees shall continue to be in effect until the Governor and the board reach agreement. The schedule of maximum fees and any additions, deletions, corrections, or changes thereto shall not be considered a rule or regulation requiring publication under the Alabama Administrative Procedure Act. It is the express legislative intent that the Workers' Compensation Medical Services Board shall have the discretion to establish a system of maximum fees under this section for services rendered by physicians as defined in this new article to employees covered by the Workers' Compensation Law and that the schedule of fees shall replace and supplant traditional competitive market mechanisms in the interest of obtaining quality physician services in a cost effective manner. The board shall annually adjust the schedule of fees established pursuant to this section by increases which shall be no more than the annual increase in the cost of living as reflected by the U. S. Department of Labor consumer price index. The board may, from time to time, add to or adjust the schedule of fees in response to changes in technology and medical practice, subject only to the right of the Governor to accept or reject the addition or adjustment made by the board, and to refer to the board for further consideration any additions or adjustments which he or she may reject. In the event that at any time a state or federal tax, levy, fee, or assessment is imposed or assessed on physicians licensed to practice medicine which tax, levy, fee, or assessment is based in whole or in part upon the provision of professional services in connection with the practice of medicine, then, in such event, the board may, subject to the approval of the Governor, within three months of the effective date of such tax, levy, fee, or assessment issue a revised schedule of maximum fees which increases the maximum fee for each service reflected therein by an amount which shall be no more than the rate fixed by law of such tax, levy, fee, or assessment. This provision shall not be construed to include income or sales tax increases. The liability of the employer for the payment of services rendered by physicians shall not exceed those maximum fees established by the board and approved by the Governor.

The employees shall not be liable to the physician for any amount in excess of the schedule of maximum fees established by the board and approved by the Governor.

Section 50. Notwithstanding any other provisions of this act to the contrary, any employer, workers' compensation insurance carrier, self-insured employer, or group fund, shall have the right to contract with physicians for the provision of medical services to injured workers at any rates, fees, or levels of reimbursement which shall be mutually agreed upon between the physician and such employer, workers' compensation insurance carrier, self-insured employer, or group fund.

Section 51. The Workers' Compensation Medical Services Board, the individual members thereof, the agents, servants, employees, consultants, or attorneys of the board, and any person, firm, or corporation contracting with the board for the specific purpose of implementing the duties, obligations, and responsibilities of the board under this act, shall each be immune from civil liability against the claims of any and all individuals, firms, corporations, institutions, or other entities for any claims of any nature whatsoever arising out of or related to the decisions, opinions, deliberations, reports, or publications which are made, rendered, or entered by the board, the individual members of the board, or the agents, servants, employees, consultants, or attorneys of the board or any person, firm, or corporation contracting with the board which decisions, opinions, deliberations, reports, or publications were made in good faith, without malice, and predicated upon information which was then available to the board.

Section 52. Premium Incentives for Small Employers.

(a) In this act "small employer" means an employer who regularly employs fewer than 50 employees.

(b) The Department of Insurance shall promulgate a plan by which all insurance companies writing workers' compensation insurance in this state shall grant a discount to small employers who qualify under this act and by which surcharges are assessed against small employers who experience two or more employee compensable lost-time injuries during a one-year period.

(c) A small employer who has not experienced a compensable employee lost-time injury during the most recent one-year period for which the statistics are available shall receive a discount of 10 percent on the amount of the employer's workers' compensation insurance premium.

(d) A small employer who has not experienced a compensable employee lost-time injury during the most recent two-year period for which statistics are available shall receive a discount of 15 percent on the amount to the employer's workers' compensation insurance premium.

(e) A small employer who has experienced one compensable employee lost-time injury during the most recent one-year period for which statistics are available is not eligible for a discount on the amount of the employer's workers' compensation insurance premium.

(f) A small employer who has experienced two or more compensable employee lost-time injuries during the most recent one-year period for which statistics are available shall be assessed a surcharge of 10 percent on the amount of the employer's workers' compensation insurance premium.

Section 53. Optional Deductible Plans. (a) The department shall require each company or association that writes workers' compensation insurance in this state to offer optional deductible plans to allow policyholders to self-insure for the deductible amount.

(b) Not later than July 1, 1992, the department shall promulgate at least three plans with varying deductible options. In addition, the department by rule shall permit an employer to enter into an agreement with an insurer for a negotiated deductible in excess of the largest promulgated deductible.

(c) The department shall perform an actuarial analysis to determine the amount of rate reduction applicable to policies under this article as opposed to standard policies without a deductible. In subsequent years, the department shall determine the amount of rate reduction according to rate procedures adopted by it. When establishing procedures for the calculation of experience modifiers, the department may allow the exclusion of the claim amounts paid under the deductible by the employer.

(d) A deductible policy must provide that the company or association will make all payments for benefits that are payable from the deductible amount and that reimbursement by the policyholder shall be made periodically, rather than at the time claim costs are incurred. The department shall promulgate rules that provide for adequate security for reimbursement of the amount paid by the company or association which is payable from the deductible.

(e) The company or association shall service all claims that arise

during the policy period, including those claims payable, in whole or in part, from the deductible amount.

(f) A person who is employed by a policyholder who self-insures the deductible amount as provided under this act may not be required to pay any of the deductible amount.

Section 54. (a) There is established in the State Treasury a fund entitled the Workers' Compensation Administrative Trust Fund, into which shall be deposited certain assessments provided under Chapter 5 (commencing with Section 25-5-1) of Title 25 of the Code of Alabama 1975, collected by the department. The fund shall constitute a separate fund to be disbursed by the State Comptroller on order of the director. All expenses incurred by the department under the Workers' Compensation Law, including the salaries of all employees, travel cost, and any other cost of administration and enforcement as may become necessary, either within or without the state, shall be paid from the separate fund in the State Treasury upon warrants of the State Comptroller drawn upon the State Treasury from time to time when vouchers therefor are approved by the director. The State Treasurer shall pay monies from the separate fund upon the order of the director. The total expense for every purpose incurred shall not exceed the total assessment collected and paid into the fund. The total expense for every purpose incurred in implementing this act shall not exceed the amount appropriated by the Legislature in the general fund appropriation act. No funds shall be withdrawn or expended except those budgeted and allocated in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41 of the Code of Alabama 1975. All monies remaining unexpended in the separate fund at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided. Included in the budget shall be an amount of money allocated for the specific and exclusive purpose of paying only benefits to the claimants who have qualified to receive benefits from the Second Injury Trust Fund on the effective date of this act. Payments of these benefits shall be made weekly. The director shall each week make requisitions to the State Comptroller who shall draw warrants on the State Treasurer for the weekly compensation amount. The warrants shall be drawn only if there are sufficient monies in the treasury for immediate payment. Claims shall take priority in an ascending numerical order according to the time of the accident, and the time shown in the settlement between the employer and employee shall be prima facie evidence of the time of the accident. No funds allocated for the payment of benefits from the fund shall be used to pay lump-sum attorney's fees. Payment shall resume at the end of the first week of the fiscal year in which the Legislature approves the requested budget for the Workers' Compensation Adminis-

trative Trust Fund. The claimants who were receiving weekly benefits from the Second Injury Trust Fund as of August 31, 1991, shall be paid all weekly benefits due to date and the benefits shall be continued for the duration of claim. Those amounts will be paid from the monies as allocated.

(b) The State Treasurer shall determine if the money in the trust fund shall be kept in cash or invested. The moneys in the fund may be invested by the State Treasurer and all moneys and interest remaining unexpended in the separate fund provided at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided.

(c) The director is designated as trustee of the fund and the State Treasurer is designated as custodian of the fund, and both shall furnish bonds in amounts deemed appropriate. The cost of bonds for the trustee, custodian, and other employees or officials required to post bond in connection with the program shall be paid out of the fund.

(d) Each insurance carrier, self-insured employer, and group fund shall be assessed two hundred fifty dollars (\$250). The gross claims for compensation and medical payments paid by the carriers, self-insured employers, and group funds are the basis for computing the amount to be assessed. The amount of assessment shall be based upon the proportion that the total gross claims for compensation and medical payments paid by the carrier, self-insured employer, or group fund during the preceding calendar year bore to the total gross claims for compensation and medical payments paid by all carriers, self-insured employers, and group funds during that period. The total assessment shall not exceed seven million dollars (\$7,000,000) per year. The director shall determine if the assessment shall be a specific amount or shall be a percentage of gross claims for compensation and medical payments paid by the insurance carriers, self-insured employers, and group funds. An assessment shall not exceed an amount reasonably necessary to defray the necessary administration expense.

(e) The department shall provide by regulation for the collection of the amounts assessed against each insurance carrier, self-insured employer, and group fund. The amounts shall be paid within 30 days from the date that the notice is served upon the insurance carrier, self-insured employer, and group fund. If the amounts are not paid within that period, there may be assessed, for each 30 days that the amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount unpaid. The amount of the civil penalty shall be collected at the same time the amount assessed is collected.

(f) If an insurance carrier, self-insured employer, or group fund

fails to pay the amounts assessed against it within 60 days from the time the notice is served, the department may suspend or revoke the authorization to the self-insurer and may request that the Department of Insurance revoke the authority of the insurance company to insure workers' compensation.

(g) The department may require from each insurance carrier, self-insured employer, and group fund reports with respect to all payments of compensation and medical payments by the insurance carriers, self-insured employers, or group funds during each calendar year, and may determine the amounts paid by each insurance carrier, self-insured employer, and group fund and may determine the amounts paid by all insurance carriers, self-insured employers, and group funds during the period.

(h) On or before the first day of March of each year, every insurance carrier, self-insured employer, and group fund shall file with the department a statement on the prescribed forms showing the gross claims for compensation and medical payments paid by the insurance carrier, self-insured employer, or group fund during the preceding one-year period ending on the 31st day of December. Any insurance carrier, self-insured employer, or group fund which neglects to file its annual written statement within the time provided in this manner shall pay to the Workers' Compensation Administrative Trust Fund a penalty for each day's neglect in an amount prescribed by rule of the director.

(i) All money collected under this section shall be deposited in the Workers' Compensation Administrative Trust Fund.

Section 55. (a) Within 60 days after the effective date of this act, the director shall assess each insurance carrier, self-insured employer, and group fund its pro rata share of the total amount of up to four million eight hundred thousand dollars (\$4,800,000) according to the method set out in Section 54(d). Of the total amount, eight hundred thousand dollars (\$800,000) shall be allocated to pay weekly benefits to the claimants of the Second Injury Trust Fund until an appropriate budget is approved in accordance with Chapter 4 of Title 41 of the Code of Alabama 1975. The assessment shall be deposited into the Workers' Compensation Administrative Trust Fund and disbursed by the State Comptroller on order of the Director of Industrial Relations.

(b) The assessment is appropriated and made available for the initial implementation costs and expenses of the workers' compensation program to fund activities not included in the general fund appropriation for fiscal year 1991-1992 and fiscal year 1992-1993, which are peculiar to this act.

(c) Any unexpended balance remaining at the end of the fiscal year will be credited to the insurance carriers and self-insured employers at the end of the next fiscal year.

Section 56. All laws or parts of laws which conflict with this act and specifically Section 25-5-16, Sections 25-5-70 to 25-5-75, inclusive, Section 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975, are repealed.

Section 57. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 58. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 59. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

RECESS

At 12:25 P.M., on motion of Senator Amari, the Senate took a recess until 1:45 P.M.

At 1:45 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Mitchell substitute for the deGraffenried substitute.

On motion of Senator Mitchell, said Mitchell substitute was laid on the table.

Senator Mitchell then offered the following substitute No. 2 for the deGraffenried substitute for the Bill, SB 122, to-wit:

MITCHELL SUBSTITUTE NO. 2 FOR DEGRAFFENRIED SUBSTITUTE FOR SB 122

A BILL TO BE ENTITLED AN ACT

To revise the Alabama Workmen's Compensation Law; to amend

Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation ombudsman program, benefit review conferences; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the Department of Industrial Relations and the Alabama judicial system shall administer the Alabama Workers' Compensation Act to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Act. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Act is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes. However, even a liberality of construction does not abrogate the measure of proof or sufficiency of evidence.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Law of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of aging. The Legislature has concluded that it is extremely difficult for the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system. The establishment of a Workers' Compensation Medical Services Board as constituted in this act is considered by the Legislature to be the most appropriate mechanism for insuring that high quality medical services are provided in a cost-effective manner to employees injured in the workplace.

Section 2. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.
"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit The recovery which an employee may receive by action at law under article Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation' does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury, except as provided in Section 25-5-11(c).

"(2) CHILD or CHILDREN. ~~Such~~ The terms include posthu-

mous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of ~~such~~ the deceased grandparent at the time of the accident.

"(3) **DEPENDENT CHILD or ORPHAN.** An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) **EMPLOYER.** Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays wages directly to ~~such the~~ person. Such The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, such the insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, ~~and shall not include one who regularly employs a number less than three in any business; provided, however, that the.~~ The inclusion of an employer's insurer within such the term shall not provide such the insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under the provision of Section 25-5-11. Notwithstanding ~~any section of articles 2 and 3~~ the provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such the a common carrier.

~~"(5) **PHYSICIAN.** Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

~~"(6) (5) **EMPLOYEE, WORKER, WORKMEN and WORKMAN.**~~ EMPLOYEE or WORKER. Such The terms are used interchangeably, and have the same meaning throughout this chapter, and shall be construed to mean the same. Such The terms include the plural and all ages and both sexes. Such The terms include every person ~~not excluded by section 25-5-50,~~ in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the

laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a 'workman' 'worker' or 'employee' shall, ~~where~~ if the ~~workman~~ worker or employee is dead, include his or her ~~dependents~~ dependent, as defined in this chapter, if the context so requires.

~~"(7)~~ (6) WAGES or WEEKLY WAGES. ~~Such~~ The terms shall in all cases, ~~unless the context clearly indicates a different meaning,~~ be construed to mean 'average weekly earnings.' Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit. Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens and also includes minors who are legally permitted to work under the laws of the state.

~~"(8)~~ (7) ACCIDENT. ~~Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, ~~unless a different meaning is clearly indicated by the context,~~ be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

~~"(9) INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT. Without otherwise affecting either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not include a disease unless the disease results proximately from the accident.~~

"(8) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment,

and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(9) ARISING OUT OF AND IN THE COURSE OF THE EMPLOYMENT. An accident arises out of and occurs in the course of the employment when it occurs while the employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties. However, for a cumulative trauma disorder to 'arise out and in the course of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"(10) (10) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

"(11) (11) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

"(12) (12) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"(13) PROVIDERS. As used herein for the purposes of this chapter, 'providers' includes medical clinic, pharmacist, dentist, chiropractor, psychologist, podiatrist, physical therapist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee receives treatment.

"(14) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(15) PREVAILING. For purposes of this chapter, the term

'prevailing' shall mean most commonly occurring reimbursements for health services within a 'district,' as defined herein, other than those provided by federal and state programs for the elderly (Medicare) and economically disadvantaged (Medicaid). 'Prevailing' shall include not only amounts per procedure code, but also commonly used adjudication rules as applied to multiple procedures, a global procedures, use of assistant surgeons, and others as appropriate. For hospitals, 'prevailing' rate of reimbursement or payment shall be established by the method contained in Section 25-5-77.

"(16) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(17) HOSPITAL. As used herein for the purposes of this chapter, the term 'hospital' shall include a hospital, ambulatory surgical center, and outpatient rehabilitation centers licensed by the State of Alabama.

"(13) (18) THE COURT. ~~Such term shall mean the~~ The circuit court ~~which that~~ would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' ~~shall mean~~ means a judge of said ~~that~~ court."

"(19) UTILIZATION REVIEW. For purposes of this chapter, 'utilization review' shall be defined as the determination of medical necessity for medical and surgical in-hospital, out-patient, and alternative settings treatments for acute and rehabilitation care. It shall include precertification for elective treatments. Concurrent review and, if necessary, retrospective review are required for emergency cases.

"(20) BILL SCREENING. For purposes of this chapter, 'bill screening' shall be defined as the evaluation and adjudication of provider bills for appropriateness of reimbursement relative to medical necessity and prevailing rates of reimbursement, duplicate charges, unbundling of charges, relativeness of services to injury or illness, necessity of assistant surgeons, adjudication of multiple procedures, number of modalities, global procedures, and any other prevailing adjudication issues that may apply.

"(21) ADJUDICATION. For purposes of this chapter, 'adjudi-

cation' means the review of claims to apply prevailing rules that adjust reimbursements for the amount of work required when multiple procedures are performed at the same time, when assisting surgeons are present, to eliminate duplicate billing from the unbundling of global fees, and to adjust for the most commonly occurring method adopted for total reimbursement.

"(22) DISTRICT. A number of appropriate areas of the state as determined by an independent actuarial consultant for the purposes of ascertaining the cost of similar treatment.

"(23) OMBUDSMAN. An individual who assists injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under the workers' compensation law.

"(24) DIRECTOR. The Director of the Department of Industrial Relations."

Section 3. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the State of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this chapter ~~and, to~~. To this end, ~~he or she shall have full power to make or cause to be made~~ the necessary investigations and examinations in connection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears.~~

Section 4. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

"The ~~director of the department of industrial relations~~ shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of ~~charge~~ sample copies to any employer or employee ~~such~~ the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of ~~articles~~ Articles 2 and 3, 2, 3, and 4 of this

chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for physicians licensed to practice medicine and for other providers shall be approved by the director and the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be established under the provisions of Section 27-1-16, Code of Alabama 1975."

Section 5. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

"Every An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, ~~received by his employees in the course of their employment.~~ Within 15 days after the occurrence of such the injuries and knowledge thereof by the employer, a report of the same shall be made to the department of industrial relations on forms approved by said the department. At the discretion of the director, reports received under ~~the provisions of this chapter~~ may be destroyed after 12 years."

Section 6. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. Every An employer ~~who accepts~~ subject to the provisions of this chapter may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, or insurance association, or corporation, or association formed of employers and ~~workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the ~~director~~ Commissioner of the Department of Insurance of Alabama and have been authorized by the said Department of Insurance to trans-

act the business of ~~workmen's~~ workers' compensation insurance in this state and under ~~such the charter or~~ plan.

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director of ~~industrial relations~~ of his or her financial ability to pay directly ~~such~~ compensation in the amount and manner and when due as provided by this chapter. ~~whereupon~~ Whereupon, the director shall authorize ~~said~~ the employer to operate as a self-insurer. ; ~~provided, however, that the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter.~~ The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) ISSUANCE, REVOCATION, ETC. ~~Whenever an employer has complied~~ Upon the employer's complying with the provisions of subsection (b) of this section relating to self-insurance, the director shall issue to ~~such the~~ employer a certificate, which shall remain in force for a period fixed by the director. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as

provided in this subsection. At any time after ~~such the~~ revocation, the director may grant a new certificate to the employer upon ~~his~~ application by the employer.

"(2) APPEALS. An appeal may be taken from any ruling of the director under subsection (b) of this section ~~and or under~~ this subsection to the circuit court. The presiding judge shall, within ten (10) days after notification of appeal, assign a member of the court to hear the case and the matter shall be set for hearing at the earliest available time. of any county wherein the employer does business. Trial in such court shall be de novo, and without a jury unless the employer demands a jury trial at the time of taking such appeal; provided, however, that the ~~The~~ taking of ~~any such~~ an appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with ~~the clerk of said the~~ court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final judgments orders for compensation that may be rendered against ~~him~~ the employer pending the disposition of ~~such the~~ appeal.

"(c) Penalties for failure to secure payment of compensation; injunctions. ~~Any~~ An employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such the~~ compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director ~~is authorized to may~~ apply to ~~any~~ a court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an amount not to exceed one hundred dollars (\$100) per day. Subsequent compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of

the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment~~ award or judgment rendered against ~~such the~~ employer upon the risk so insured. ~~Such The~~ policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which that~~ shall become owing, on account of ~~such the~~ policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said-workman~~ worker or ~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman,~~ worker. ~~but such~~ Such policies, however, shall contain no obligations relieving the insurance company from payment of obligations ~~when if~~ the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the State of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every~~ An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of~~ this chapter shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such the~~ insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. The Commissioner of the Department of Insurance shall convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to any filing. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and

other evidence relevant to the filing pending. Within 10 days after ~~such approval, of said rates, schedules and system of schedule or merit rating by said director~~ the Commissioner of the Department of Insurance, ~~he~~ shall make or cause to be made a sufficient number of ~~printed or typewritten~~ copies of same for ~~such~~ that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing ~~workmen's workers'~~ compensation business in the State of Alabama, at ~~its the carrier's~~ last address or at the last address of its designated agent to receive the same ~~left in writing by such carrier with said department.~~ And every such The insurance carrier shall (or if ~~such insurance carrier~~ it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause ~~such~~ the rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which ~~said the~~ rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to ~~such the~~ rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file ~~said the~~ statement within the time specified above, ~~said the~~ rates, schedules, ~~or~~ and systems may be presumed by the ~~director~~ Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The ~~said director~~ Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by ~~any such an~~ insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, ~~such the~~ premium rate or schedule is excessive, ~~or~~ unreasonable, ~~or~~ discriminatory, or ~~is~~ inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the motor common carrier accepting the coverage of owner-operators or lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state shall affect the right of ~~any an~~ insurance corporation or ~~any a~~ mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon such the policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES.

No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless ~~such the agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the director commissioner of the department of insurance of the state of Alabama.~~ But the employer and the ~~workman~~ worker may agree to carry the risks covered by this chapter in conjunction with other and greater risks and to provide other and greater benefits, such as additional compensation; accident, sickness, or old age insurance; or benefits, and the fact that ~~such the plan involves a contribution by the workman~~ worker shall not prevent its validity if ~~such the plan has been approved in writing by the director commissioner of the department of insurance of Alabama.~~ Any An employer who ~~shall make~~ makes any charge or deduction prohibited by this section ~~shall be~~ is guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer ~~shall insure to his employees~~ insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in ~~the state of Alabama~~ and approved by the ~~director commissioner of the department of insurance of the state of Alabama,~~ and if the employer ~~shall post~~ posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured; and if the employer ~~shall further file~~ files a copy of ~~such the~~ notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or ~~his the employee's dependents~~ dependent shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. ~~In case of insolvency or bankruptcy of said insurance company or in case~~ If the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under ~~the provisions of this chapter.~~ Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for ~~such the~~ excess. The return of any execution upon ~~any a~~ judgment of ~~any an~~ employee against ~~any such an~~ insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of ~~such the~~ insurance company for the purposes of this chapter, and, ~~in the event of adjudication of bankruptcy or insolvency of any such insurance company~~ if the insurance company is adjudged to be bankrupt or insolvent by ~~any a~~ court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against ~~such the~~ employer and the insurance company jointly or severally or in ~~any a~~ pending proceeding against ~~any the~~ insurance company, and the employer may be joined at

any time after ~~such~~ the adjudication.

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) In the event the court determines and makes a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, the provisions of Section 25-5-11.1 shall not apply to the employer. In addition to the denial of workers' compensation benefits under this act, the employer, upon such a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, may terminate the worker.

"(3) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100)."

Section 7. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) Any A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the workman worker for the provisions of benefits provided by this chapter shall himself be included in the term 'employer' and shall be subject to all the liabilities of employers under this chapter. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.

"(b) When compensation is claimed from or proceedings taken against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the workman worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts ~~of~~ or omissions of third persons not at the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 8. Section 25-5-11, Code of Alabama 1975, is amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not ~~such~~ the party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of ~~his~~ death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against ~~such~~ the other party to recover damages for ~~such~~ the injury or death, and the amount of ~~such~~ the damages shall be ascertained and determined without regard to this chapter. ~~;~~ provided, however, if such If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, servant or employee of such the carrier, person, firm, association, trust, fund, or corporation, or is a labor union, or any official or representative thereof, or is a governmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, servant or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of ~~his~~ death, may bring ~~such~~ an action against any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, ~~or such~~ labor union, or the governmental agency, or such person, or his or her personal representative, only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of ~~his~~ death, his or her

dependents, recover damages against ~~such the~~ other party, the amount of ~~such the~~ damages ~~so~~ recovered and collected shall be credited upon the liability of the employer for compensation. ~~and if such~~ If the damages ~~so~~ recovered and collected ~~should be~~ are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of ~~such the~~ injury or death. To the extent of ~~any such the~~ recovery of damages against ~~such the~~ other, the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of ~~such~~ injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of ~~such~~ compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, ~~(less the amount of any reimbursement for compensation already paid),~~ divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee pursuant to the common law of Alabama, or based upon equitable principles, or otherwise as determined on a case-by-case basis by the court.

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing ~~and any~~ payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a cause of action against ~~such the~~ person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~ if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a

safety guard or safety device provided by the manufacturer of the machine with knowledge that injury or death would likely or probably result from ~~such the~~ removal; provided, however, that removal of ~~such a~~ guard or device shall not be willful conduct unless ~~such the~~ removal did, in fact, increase the danger of in the use of the machine and was not done for the purpose of repair of the machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or.~~

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other~~ another employee or ~~other~~ another person; ~~or.~~

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such the~~ written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said the~~ willful and intentional violation. ~~Said The~~ written notice to the violating employee must state with specificity all of the following:

"a. The identity of the violating employee; ~~.~~

"b. The specific written safety rule being violated and the manner of the violation; ~~.~~

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, and circumstances; ~~.~~

"d. That ~~such the~~ violation places the notifying employee at risk of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such the~~ willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own injury. ~~and no~~ No employee shall be held liable under this paragraph section for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of his death, ~~his dependents~~ do not file a civil action against ~~such~~

the other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such the~~ other party for damages on account of ~~such the~~ injury or death. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such the~~ employee or his or her ~~dependents dependent~~, or in the event a proceeding is pending against the employer to require the payment of ~~such the~~ compensation, ~~such the~~ civil action may be maintained either in the name of the injured employee or, in the name of his or her dependent in case of his death, ~~in the name of his dependents~~, or in the name of the employer or the insurance carrier. ~~and in~~ In the event the damages recovered in ~~such the~~ civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making ~~such the~~ collection, the excess of ~~such the~~ amount shall be held in trust for the injured employee or, in case of his death, for ~~his the~~ employee's dependents. ~~In the event~~ If ~~such the~~ injured employee has no ~~dependents dependent~~, ~~his the~~ personal representative, in the event of his death, may bring a civil action against ~~such the~~ other party to recover damages without regard to this chapter.

"(e) In ~~any a~~ settlement made under this section with a third party by the employee or, in ~~the~~ case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from ~~such the~~ third party. For purposes of the subrogation provisions of this subsection only, 'compensation' includes medical expenses, as defined in Section 25-5-77.

"(f) For the purpose of this section, ~~any a~~ carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a company or a governmental agency making a safety inspection on behalf of ~~any a~~ self-insured employer or its employees and ~~any an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ company or a governmental agency.

Section 9. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.

"ELECTIVE COMPENSATION UNDER CONTRACT "OF EMPLOYMENT.

"§25-5-50.

"This article and Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employer of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; ~~or to any an~~ an employer who regularly employs less than three employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. ~~Any An individual employer, as defined in section 25-5-1 hereof, any~~ any employer who regularly employs less than three employees in any one business; ~~any farmer, a farm-labor employer; an employer of a domestic employee; or any a~~ a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to ~~the provisions of this article and Article 2 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said the employer; provided further, that any an employer who has so elected to accept the provisions of this article and Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.~~

"Notwithstanding the foregoing paragraph, ~~any an~~ an officer of a corporation may elect annually to be exempt from coverage by filing written certification of ~~such the~~ the election with the department of ~~industrial relations and his the employer's~~ the employer's insurance carrier.

"~~A~~ At the end of any calendar year, a corporate officer who has been exempted, himself by proper certification from coverage, may at the end of any calendar year revoke ~~such the~~ the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department of ~~industrial relations and his the~~ the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of ~~industrial relations.~~

~~"In the event that~~ If the corporate officer election occurs ~~elects to be exempt from coverage, such the~~ election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be

employed by the firm.

"This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 10. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by ~~every such~~ the employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence; ~~except, that~~. Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, ~~or~~ by the employee's intention to bring about the injury or death of himself or herself or of another, ~~or due to his own intoxication~~ ~~or~~ his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transpor-

tation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident or occupational disease after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting physical or mental conditions may void your workers' compensation benefits.' If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish ~~such~~ the defense."

Section 11. Section 25-5-52, Code of Alabama 1975, is amended to read as follows:

"§25-5-52.

"No Except as provided in this chapter, no employee of any employer subject to this ~~article~~ chapter, nor the personal representative, surviving spouse, or next of kin of ~~any such~~ the employee shall have ~~any~~ a right to any other method, form, or amount of compensation or damages for ~~any an~~ injury or death occasioned by ~~any an~~ accident or occupational disease proximately resulting from and while engaged in the actual performance of the duties of his or her employment and from a cause originating in such employment or determination thereof ~~other than as provided in this article.~~"

Section 12. Section 25-5-53, Code of Alabama 1975, is amended to read as follows:

"§25-5-53.

"The rights and remedies ~~herein~~ granted in this chapter to an

employee shall exclude all other rights and remedies of said the employee, his or her personal representative, parent, dependents dependent, or next of kin, at common law, by statute, or otherwise on account of said injury, loss of services, or death. Except as provided in this article and article 2, as the case may be, of this chapter, no employer ~~included within the terms of this chapter~~ shall be held civilly liable for any personal injury to or death of any workman who is an employee of the employer and the employer's employee, for purposes of this chapter, whose injury or death is due to an accident or to an occupational disease while engaged in the service or business of the employer, the cause of which accident or occupational disease originates in the employment. In addition, immunity from civil liability for all such causes of action except those based upon willful conduct shall also extend to any workers' the workers' compensation insurance carrier of the employer; or any to a person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer; or any to an officer, director, agent, servant or employee of such the carrier, person, firm, association, trust, fund, or corporation; and to any a labor union, or any an official, or representative thereof; to a governmental agency providing occupational safety and health services, or an employee of the agency, and to any an officer, director, agent, servant or employee of the same employer, or his or her personal representative. Nothing in this section shall be construed to relieve any a person from criminal prosecution for failure or neglect to perform any a duty imposed by law.

"For the purpose of this section, any a carrier, person, firm, association, trust, fund, or corporation shall include any a company or a governmental agency making a safety inspection on behalf of any a self-insured employer or its employees and any an officer, director, agent, servant or employee of such the company or a governmental agency."

Section 13. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

~~"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from and after January 1, 1920, subject to and under the provisions of this article. Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come~~

under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."

Section 14. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, ~~at any time~~ to require the appointment of a guardian to make ~~such the~~ settlement and to receive moneys thereunder or under an award. Payments of awards made to ~~such~~ minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 15. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of ~~compensation~~ benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article and Article 4 of this chapter between themselves, and every settlement ~~made under this article~~ shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the ~~circuit court of the county~~ where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the ~~circuit court of any county~~ determines that it is for the best interest of the employee or ~~his the employee's dependents~~ dependent to accept a lesser sum and approves ~~such the~~ settlement. The court shall not approve any ~~such~~ settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant; and if deemed advisable, the court may hold a hearing thereon. ~~Any settlements~~ Settlements made hereunder may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon ~~such~~ settlements being approved, judgment shall be entered thereon and duly entered on the records of ~~said the~~ court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. ~~The costs of the proceedings shall not exceed~~

~~\$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local. All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that such the payments shall not be construed as an admission of liability but shall be without prejudice."~~

Section 16. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be $66 \frac{2}{3}$ percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of ~~such the~~ average weekly earnings per week. This compensation shall be paid during the time of ~~such the~~ disability, but at ~~such the~~ time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of For~~ temporary partial disability, the compensation shall be $66 \frac{2}{3}$ percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of ~~such the~~ disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee

who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such the~~ compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such the~~ former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such the~~ new employment, and until he or she gives ~~such the~~ affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such the~~ employee was employed at the time of the accident for which ~~such the~~ compensation is being paid may also at any time demand of ~~such the~~ employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such the~~ affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such the~~ affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such the~~ disability. In cases included in the following schedule, the compensation shall be 66 2/3 percent of the average weekly earnings, during the number of weeks set out in the following schedule-:

"1. For the loss of a thumb, 62 weeks.

"2. For the loss of a first finger, commonly called the index finger, 43 weeks.

"3. For the loss of a second finger, 31 weeks.

"4. For the loss of a third finger, 22 weeks.

"5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.

"6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such the~~ thumb or finger, and compensation shall be paid at the prescribed rate during one half of the time specified above for ~~such the~~ thumb or finger.

"7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount

received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

"8. For the loss of a great toe, 32 weeks.

"9. For the loss of any of the toes other than the great toe, 11 weeks.

"10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed above for ~~such~~ the toe.

"11. The loss of two or more phalanges shall be considered as the loss of an entire toe.

"12. For the loss of a hand, 170 weeks.

"13. For the loss of an arm, 222 weeks.

"14. For the loss of a foot, 139 weeks.

"15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"16. For the loss of a leg, 200 weeks.

"17. For the loss of an eye, 124 weeks.

"18. For the complete and permanent loss of hearing in both ears, 163 weeks.

"19. For the complete and permanent loss of hearing in one ear, 53 weeks.

"20. For the loss of an eye and a leg, 350 weeks.

"21. For the loss of an eye and one arm, 350 weeks.

"22. For the loss of an eye and a hand, 325 weeks.

"23. For the loss of an eye and a foot, 300 weeks.

"24. For the loss of two arms, other than at the shoulder, 400 weeks.

- "25. For the loss of two hands, 400 weeks.
- "26. For the loss of two legs, 400 weeks.
- "27. For the loss of two feet, 400 weeks.
- "28. For the loss of one arm and the other hand, 400 weeks.
- "29. For the loss of one hand and one foot, 400 weeks.
- "30. For the loss of one leg and the other foot, 400 weeks.
- "31. For the loss of one hand and one leg, 400 weeks.
- "32. For the loss of one arm and one foot, 400 weeks.
- "33. For the loss of one arm and one leg, 400 weeks.

"34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, 66 2/3 percent of the average weekly earnings for ~~such~~ the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of ~~such~~ the temporary total disability shall not be deducted from the number of weeks payable for ~~such~~ the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said~~ specified in the schedule for such injury shall be in lieu of all other

compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of ~~such the~~ member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of ~~such the~~ refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, ~~such the~~ refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In For all other cases of permanent partial disability~~ disabilities not above enumerated, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the workman worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. In making this evaluation, the court shall consider the permanent partial restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. When If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such the~~ temporary total disability shall be deducted from the number of weeks payable for ~~such the~~ permanent partial disability. Compensation shall continue during disability, but not, ~~however,~~ beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employ-

ee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in subdivision subsection (a)(2) of this section.

"i. If, on or after the date of maximum medical improvement, except for scheduled injuries as provided in Section 25-5-57(a)(3), an injured worker returns to work at the same employer at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to his or her physical impairment and the court shall not consider any evidence of vocational disability. Notwithstanding the foregoing, within a period of time not to exceed 416 weeks from the date of injury, if the employee establishes that he or she lost his or her employment permanently through no fault of his or her own, the employee may petition within two years thereof for a hearing before the court and the court may consider at that time evidence as to the earnings the employee is or may be able to earn in his or her partially disabled condition. In making this evaluation, the court shall consider the permanent restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. Nothing contained in this section shall be construed as having any effect upon any evidentiary issues or claims made in third party actions pursuant to Section 25-5-11.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive 66 2/3 percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; provided, that, Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during such the permanent total disability, as defined in said paragraph d. of this subdivision. Payment of such the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. Such The payments, with the approval of the circuit judge or by the agreement of the parties, may be made monthly,

quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the ~~circuit~~ court ~~which that~~ awarded or approved compensation for permanent total disability to ~~alter~~, amend, or revise the award or approval of ~~such the~~ compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the disability from which the employee suffers is no longer a permanent total disability and, if the court is so satisfied after a hearing, it shall alter, amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to ~~a circuit the~~ court that would have had jurisdiction to award ~~such the~~ compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of ~~such the~~ benefits, the employee may, within two years of the last payment, petition the court to reinstate ~~such the~~ benefits and, upon a showing that ~~such the~~ permanent total disability still exists, shall be entitled to have ~~such the~~ benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public institution, ~~then~~ no compensation shall be payable unless ~~he has the~~ employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of such the person so dependent, during dependency, in the manner so ordered by the court, while the employee is an inmate in such the institution; provided, however, that nothing. Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents dependent~~ named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said the~~ employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said the~~ public institution the normal and customary charge for the services rendered by ~~said the~~ public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of ~~said the~~ inmate or not. ~~In~~

~~the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, ~~said workmen's~~ the workers' compensation payments shall be directly paid to ~~said the~~ guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie evidence of permanent total disability ~~and but~~ shall not constitute the sole basis on which an award of permanent total disability may be based; provided, that any employee whose disability results from ~~such the~~ injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"e. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he~~ the employee received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury,~~ he the employee shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting

in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"b g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in the same employment, he or she shall not at the same time be entitled to compensation for both injuries, unless the later injury is a permanent injury, ~~such~~ as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and Article 2 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to ~~the provisions of~~ paragraph e. of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as a result of physical or vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from ~~such~~ the employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of ~~such~~ the difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period;.

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; ~~and~~.

"3. No payments shall be due for any week the employee earns as

much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such~~ the permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as the result of physical or vocational rehabilitation, accommodation, or otherwise, obtain gainful employment with an employer other than with his or her former employer, he or she shall, upon securing ~~such~~ employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at ~~such~~ the new employment; and, until he or she gives ~~such~~ the affidavit, the compensation for permanent total disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of ~~such~~ the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon ~~such~~ demand, fails or refuses to make and furnish ~~such~~ the affidavit, his or her rights to compensation shall cease until ~~such~~ the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for ~~such~~ the injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately ~~from the injury~~. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately,~~ from an injury on account of which compensation is being paid to an employee.

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of ~~his the employee's~~ employment, it must be definitely proven to the satisfaction of the court all of the following:

"1. That there was an injury resulting in hernia₇.

"2. That the hernia appeared suddenly₇.

"3. That it was accompanied by pain₇.

"4. That the hernia immediately followed an accident₇, ~~and~~.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral₇ or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said the~~ hernia, no compensation will be allowed during the time ~~such the~~ refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in ~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said the~~ operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall ~~mean the earnings~~ be based on the wages, as defined in Section 25-5-1(6) of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both

parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan, retirement plan, or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, administrative agency, arbitration, or settlement, provided however, social security payments shall not be included herein.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period, it shall be allowed a setoff in weeks against the compensation owed under this article. For the purposes of this section, voluntary contributions to a Section 125-cafeteria plan for a disability or sick pay program shall not be considered as being provided by the employer."

Section 17. Section 25-5-59, Code of Alabama 1975, is amended to read as follows:

"§25-5-59.

~~"(a) In cases of temporary total or temporary partial disability, no compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, ~~except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.~~

"(b) Compensation shall begin with the fourth day after disability, and, ~~in the event if~~ the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to ~~such~~ the unpaid installment an amount equal to ~~10~~ 15 percent thereof, which shall be paid at the same time as, but in addition to, ~~such~~ the installment.

Section 18. Section 25-5-60, Code of Alabama 1975, is amended to read as follows:

"§25-5-60.

"In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents $66 \frac{2}{3}$ percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower, the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee

to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of 16 2/3 percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or marriage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"g. If, however, the deceased employee at the time of his or her death has no dependents as herein defined, then within 60 days of his or her death, the employer shall pay a one-time lump sum payment of seven thousand five hundred dollars (\$7,500) to the deceased worker's estate.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of ~~said~~ the partial dependents by ~~such~~ the death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 19. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has another dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to such children the dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of such children the dependent. Payment to such that person shall discharge the employer from any further liability."

Section 20. Section 25-5-67, Code of Alabama 1975, is amended to read as follows:

"§25-5-67.

"~~In all cases where~~ If death results to an employee ~~caused by as the result of an accident or an occupational disease arising out of and in the course of his the employee's employment~~, the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 three thousand dollars (\$3,000). ~~In case~~ If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after ~~such~~ reasonable notice to interested parties as the court may require."

Section 21. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

"~~(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.~~

"~~(b)~~ (a) ~~With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the~~ The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state as

determined by the director of industrial relations ~~(, rounded to the nearest dollar),~~ pursuant to subsection ~~(c)~~ (b) of this section and, in any event, no more than 100 percent of ~~such the~~ average weekly wage; ~~except that.~~ Notwithstanding the foregoing, the maximum compensation payable for permanent partial disability shall be no more than the lesser of ~~\$220.00~~ two hundred twenty dollars (\$220) per week or 100 percent of ~~such the~~ average weekly wage.

"~~(c)~~ (b) For the purpose of this section, the average weekly wage of the state shall be determined by the director of industrial relations as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department of industrial relations for the preceding calendar year shall be divided by the average monthly number of insured workers ~~(, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12).~~ The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If ~~such the~~ determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after ~~such the~~ determination is made.

"~~(d)~~ (c) The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection ~~(c)~~ (b) of this section results in an increase or decrease of ~~\$2.00~~ two dollars (\$2) or more in the amount of either the maximum or minimum benefit.

"~~(e)~~ (d) In no event, except as provided for permanent total disability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any an~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date of the accident.

"~~(f)~~ (e) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 22. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate or maximum schedule of fees as established herein of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and his the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and in such event the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. In the event If surgery is required, and if the employee is dissatisfied with the designated surgeon, he or she may so advise the employer, and in such event the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing rate or the maximum schedule of fees as established herein. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation centers licensed by the State of Alabama, the prevailing rate shall be negotiated with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this act. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of the effective date of this act. For those non-participating hospitals the prevailing rate shall be determined by a committee. In the first year following the effective date of this act, the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial

Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If following the first year after the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. In case If an insurer of the employee or a benefit association has paid or is liable for such the employee's medical, surgical, and hospital service or for a part thereof, or in case if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required in such case to pay any part of such the expense, unless said. If the benefits are insufficient to pay all such the employee's expense, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such the services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) The If requested to do so by the employer, the injured employee must shall submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer, but the employee shall have the right to have a physician of his or her own selection present at such the examination, in which case the employee shall be liable to such the physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to

furnish under ~~the provisions of~~ this chapter, ~~his~~ the employee's right to compensation shall be suspended and no compensation shall be payable for the period of ~~such~~ the refusal. ~~Any~~ A physician whose services are furnished or paid for by the employer, or ~~any~~ a physician of the injured employee who treats or makes or is present at any examination of ~~any~~ an injured employee may be required to testify as to any knowledge obtained by him or her in the course of ~~such~~ the treatment or examination as ~~same~~ the treatment or examination related to the injury or the disability arising therefrom. ~~Any such~~ The physician shall, upon written request of the injured employee or his or her employer and without consent of or notice to the employee or employer not making ~~such~~ the request, furnish ~~such~~ the injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the ~~same~~ autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any~~ A hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to ~~such~~ the treatment of the injured employee. ~~Such~~ The copy may be furnished without the consent of or notice to the employee or employer not making ~~such~~ the request. ~~Any~~ A physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any~~ a claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation ~~facility or institution recommended by a vocational rehabilitation specialist, which facility or institution~~ who shall be qualified to render competent vocational rehabilitation service. If an employee who is unable in the opinion of the treating physician to return to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost of ~~such~~ the rehabilitation shall be borne by the employer. ~~Such~~ The cost, where rehabilitation requires residence at or

near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the employer's request shall result in loss of compensation for each week of the period of refusal.~~

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal shall result in loss of compensation for the period of refusal.

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution.

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel.

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim.

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance. Claim reimbursement forms for physicians licensed to practice medicine shall be approved by both the director and by the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be established under the provisions of Section 27-1-16, Code of Alabama 1975.

"If the employer or insurer responsible for payment of the claim fails to add the additional 10 percent to the claim as required by this section, the director shall assess a civil monetary penalty in the amount of \$500.00 for each such failure against the responsible party, payment of which must be made to the director within 30 days of the notice of assessment. In addition, the person, firm, corporation, or partnership providing the medical service for which payment has been delayed beyond the period specified in this section shall be entitled to recover from the employer or insurer responsible for payment of such claim in the circuit or district courts of this state the full amount of the claim,

plus the 10 percent penalty, plus liquidated damages in the amount of \$100.00 for each such claim plus a reasonable attorney's fee to be approved by the court."

Section 23. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

"Every For purposes of this article only, an injured employee or his the employee's representative shall, within five days after the occurrence of an accident, shall give or cause to be given to the employer written notice of the accident, and the employee, if he fails to give such notice, if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article and article 2 of this chapter, unless it can be shown that the party required to give such the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless such the written notice is given within 90 days after the occurrence of the accident or, where if death results, within 90 days after the death."

Section 24. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, not involving cumulative physical stress, all claims for compensation under this article and article 2 of this chapter shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article and article 2 of this chapter or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In cases involving personal injury due to cumulative physical stress, compensation under this article shall be forever barred unless within two years after the date of the last exposure to the condition causing injury one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In cases involving claims for lost earning capacity under Section 25-5-57(a)(3)i., following termination of employment as outlined therein, compensation under this article and Article 4 shall be forever barred unless brought within two years of the termination. In case of death, all claims for compensation shall be forever barred unless within two years after death, when the death re-

sults proximately from the accident within three years, the parties shall have agreed upon the compensation under this article ~~and article 2 of this chapter~~, or unless within two years after ~~such~~ the death one of the parties shall have filed a verified complaint as provided in ~~section~~ Section 25-5-88. Where, however, payments of compensation as distinguished from medical or vocational payments have been made in any case, said limitations shall not take effect begin to run until the ~~expiration of two years from the~~ time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any ~~such~~ case shall be extended to become effective two years from the date when ~~such~~ the incapacity ceases."

Section 25. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No ~~such~~ commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's ~~dependents~~ dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making ~~such~~ the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 26. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of ~~any~~ an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to ~~any savings~~ a bank or trust company of this state or any a national bank doing business in this state to be approved and designated by the court, and ~~such~~ the sum, together with all interest thereon, shall thereafter be held in trust for the employee or ~~dependents~~ dependent of the employee, who shall have no further recourse against the employer.

The payment of ~~such~~ the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the ~~clerk of the circuit~~ court, shall operate as a satisfaction of ~~said~~ the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from ~~said~~ the fund a reasonable compensation for acting as ~~such~~ the trustee, which compensation shall be fixed by the court in the order making ~~such~~ the designation. Payments from ~~said~~ the fund shall be made by the trustee in the same amounts and at the same time as are required in this article of the employer until ~~said~~ the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the ~~dependents~~ dependent of the deceased employee ~~as the case may be. In the event~~ If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance remaining in ~~said~~ the bank or trust company after ~~such~~ the termination should be returned by them to the employer, his or her successor, or assigns."

Section 27. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of ~~any~~ an installment, the owner or interested party may, upon the expiration of 30 days from ~~said~~ the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the ~~judgment~~ award or ~~award~~ settlement agreement by ascertaining the ~~cash or~~ present value of ~~same~~ the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; ~~unless~~ however, the defaulting employer ~~enters~~ may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the ~~circuit~~ judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. ~~Said~~ The bond shall be recorded upon the minutes of the ~~circuit~~ court.

"(b) (2) Claims for compensation, or awards, or judgments, or

agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. ~~There shall be no right to waive this exemption.~~"

Section 28. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

~~"No~~ Unless otherwise provided in this chapter, no part of the compensation payable under this article and Article 4 of this chapter shall be paid to attorneys an attorney for the plaintiff claimant for legal services, unless, upon the application of the plaintiff to a judge of the circuit court, such the judge shall order or approve of the employment of an attorney by the plaintiff; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff for his or her legal services and the manner of its payment, but such the fee shall not exceed 15 percent of the compensation awarded or paid."

Section 29. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide any needed technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the Workers' Compensation Division of the Department of Industrial Relations.

Section 30. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.
"COMPENSATION FOR OCCUPATIONAL
DISEASES GENERALLY.

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than including~~ occupational pneumoconiosis and occupational exposure to radiation as defined in ~~articles 5 and 7, respectively, of this chapter~~ subsections 2 and 3, respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, (including, but not limited to, loss of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of such the trade, process, occupation, or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivisions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in general.

"(5) CONTRACTION OF AN OCCUPATIONAL DISEASE. Such This term shall include any aggravation of such the disease without regard to the employment in which the disease was contracted."

Section 31. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

"(a) Where If compensation is payable under this article for an occupational disease other than pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said the disease. The employer who is liable shall not be entitled to contribution from any other employer of such the employee.

"(b) If compensation is payable for pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease and, in addition, any employer who furnished workers' compensation coverage during this period."

Section 32. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, all claims a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within one-year two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within one-year two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In case of death, all claims for compensation the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupa-

tional disease, as defined in this article, and death occurs within three years of the date of the injury, as hereinafter defined, ~~and unless within one year after such death~~ the parties shall have agreed upon the compensation under this article, or unless within ~~one year~~ two years after such death, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. ~~Where~~ If, however, payments of compensation have been made ~~in any case, said~~ the limitations ~~as to compensation~~ shall not take effect until the expiration of ~~one year~~ two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured employee, or his or her dependents dependent, to perform or cause to be performed any act required within the time in this section specified in this section, the period of limitation in any such case shall be extended to become effective ~~one year~~ two years from the date when ~~such the~~ incapacity ceases. No agreement, express or implied, to shorten or to extend ~~said the~~ limitations shall be valid or binding on either of the parties ~~when said if the employment,~~ at the time of ~~said the~~ exposure, is or was subject to the provisions of this article. ~~The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.~~

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 33. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall be no not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he or she is entitled to such the benefits."

Section 34. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.
"ALABAMA ~~WORKMEN'S~~ WORKERS' COMPENSATION
"SELF-INSURERS GUARANTY ASSOCIATION.

"§25-5-250.

"There is created a nonprofit corporation to be known as the 'Alabama ~~Workmen's~~ Workers' Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of ~~workmen's~~ workers' compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 35. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for ~~workmen's~~ workers' compensation as provided in ~~section 25-5-8(b), as amended,~~ Article 1, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 36. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 37. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"~~(a)~~ (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter.

The obligation of the fund shall be limited to the obligation of the insolvent employer under the Workmen's Workers' Compensation Act Law, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

~~"(b) (2) It shall be the duty of the~~ The department of industrial relations ~~to shall~~ determine insolvency of any self-insurer employers, and ~~to shall~~ notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

~~"(c) (3) The director of the department of industrial relations,~~ or his or her representative, ~~will shall~~ at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, he or she shall inform the board of directors, and after consultation with them, he or she shall set the amount which he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

~~"(d) (4) The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all such claims and expenses of administration.~~

~~"(e) (5) If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."~~

ESTABLISHMENT OF OMBUDSMAN PROGRAM

Section 38. (a) The Department of Industrial Relations shall establish an Ombudsman Program to assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under the Workers' Compensation Law.

(b) Ombudsmen shall meet with or otherwise provide information to injured or disabled employees, investigate complaints and communicate with employers, insurance carriers and health care providers on

behalf of injured or disabled employees.

(c) Ombudsmen shall be merit system employees and demonstrate familiarity with the Workers' Compensation Law. The ombudsman shall not be an advocate for any person who shall assist a claimant, employer, or other person in any proceeding beyond the benefit review conference, but may at all times provide appropriate information regarding this act and its rules and regulations.

(d) Each employer shall notify his or her employees of the ombudsman's service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe clearly the availability of the ombudsman on the first report of accident form required by this act. The ombudsman shall give each employee with a lost-time accident claim written notice of workers' compensation assistance that is available. The notice shall include a toll-free phone number for employees to reach an ombudsman.

(e) Ombudsmen may conduct benefit review conferences. A benefit review conference may be held between the parties involved in a dispute over any claim arising after January 1, 1993. The director shall institute and maintain an education and training program for ombudsmen. The ombudsmen shall be trained in the principles and procedures of dispute mediation and the director may consult or enter into contracts with the federal mediation and conciliation service or other appropriate organizations to accomplish this purpose.

(f) In conducting review conferences, the ombudsman shall:

(1) Mediate disputes between the parties and assist with the claim consistent with this act and the policies of the department.

(2) Inform all parties of their rights and responsibilities under this act, especially in cases in which either party is not represented by an attorney or other representative.

(3) Ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in cases in which the employee is not represented by an attorney or other representative.

(g) An ombudsman may reschedule a benefit review conference if he or she determines that available information pertinent to the resolu-

tion of disputed issues is not produced at the benefit review conference.

(h) The ombudsman may not take testimony but may direct questions to an employee, an employer, or a representative of an insurance carrier to supplement or clarify information in a claim file.

(i) The ombudsman may not make a formal record.

Section 39. A benefit review conference is a nonadversarial, informal dispute resolution proceeding designed to:

(1) Explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights.

(2) Discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues.

(3) Mediate and resolve disputed issues by mutual agreement of the parties in accordance with this act and the policies of the department.

Section 40. (a) A dispute may be resolved either in whole or in part at the benefit review conference. If the conference results in the resolution of some of the disputed issues by mutual agreement or in a settlement, the ombudsman shall reduce the agreement or the settlement to writing. The ombudsman and each party or the designated representative of the party shall sign the agreement or settlement. A settlement reached hereunder shall, unless otherwise provided herein, be effective on the date the settlement is signed unless one of the parties submits the settlement to the court for approval as provided in this chapter.

(b) An agreement signed pursuant to this section shall be binding on all parties through the final conclusion of all matters relating to the claim, unless within 30 days after the agreement is signed or approved the court on a finding of fraud, newly discovered evidence, or other good cause, shall relieve all parties of the effect of the agreement.

(c) If the dispute is entirely resolved at the benefit review conference, the ombudsman shall prepare a written report that includes:

(1) A statement of each resolved issue.

(2) The ombudsman's recommendations regarding the payment or denial of benefits.

(3) A settlement with regard to an award of attorney fees for the claimant's attorney which shall be in accordance with the amount as provided by Section 25-5-90.

(4) No permission of the court is required by an attorney to represent any party before an ombudsman.

(d) If there is a dispute as to which of two or more insurance carriers is liable for compensation for one or more compensable injuries, the ombudsman may issue an interlocutory order directing each insurance carrier to pay a proportionate share of benefits due pending a final decision on liability. The proportionate share shall be determined by dividing the compensation due by the number of insurance carriers involved.

(e) On final determination of liability, any insurance carrier that has been determined not to be liable for the payment of benefits is entitled to reimbursement from the share paid by the insurance carrier that has been determined to be liable.

(f) The ombudsman shall file the signed agreement and the report with the Department of Industrial Relations.

Section 41. (a) The director may prescribe rules and regulations for the purpose of conducting continuing education seminars for all personnel associated with workers' compensation claims and to collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report must be in the form and reported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting same from the Department of Industrial Relations.

(d) The director shall appoint appropriate advisory committees on workers' compensation matters, including an advisory committee consisting of three administrators who are members of the Alabama Hospital Association, an advisory committee consisting of three chiro-

practitioners who are members in good standing with the Alabama State Chiropractic Association, who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association, an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be selected by the director from nominations submitted by the Alabama Pharmaceutical Association, and also an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the state of Alabama, including but not limited to, the Alabama Physical Therapy Association. The committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. The committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this act. The committee shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

(e) The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the Ombudsman Program.

Members of the advisory committee shall receive State of Alabama per diem and mileage expense which shall be paid by the Department of Industrial Relations.

(f) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this act. The director shall conduct field audits as necessary to assist the private sector to gain compliance with the legislative intent. The department shall develop administrative rules to facilitate implementation and continuity of the legislative intent of this act. The director shall not establish the prevailing rate of payment or reimbursement, but may collect data which are construed to be statistically significant as defined by an independent, disinterested consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting and shall be updated annually. The director shall contract with an independent firm to create a statistically valid data base from which prevailing rates of reimbursement or payment shall be ascertained. Except as otherwise provided herein, the prevailing rate of reimbursement or payment for medical services provided under this act shall be effective 30 days after the prevailed rate of reimbursement or payment is discovered, but in no event sooner than six months from the effective date of this act.

(g) Insurance carriers and self-insurers, individual and group, are required to make appropriate payment for services provided under this act. Unless otherwise provided in this act, an insurance carrier or self-insurer, individual or group, shall not pay more than the applicable prevailing rate of reimbursement for medical services. Insurance carriers and self-insurers, individual and group, shall have utilization review and medical bill screenings. Utilization review and bill screening shall be performed by qualified individuals or entities to insure the integrity of such services and the quality of cost containment. Further, it is the express legislative intent of this act to ensure that the highest quality health care is available to employees who become injured or ill as the result of employment, at an appropriate rate of provider reimbursement. All insurers, claims adjusters, self-administered employers, and any entity involved in the administration or payment of workers' compensation claims are mandated to implement utilization review and bill screening for health services provided to employees covered under this act. In this regard, employers' liability for reimbursement shall be limited to the prevailing rate for similar treatments in the district where the employee receives services. The State of Alabama shall be divided into a number of appropriate districts as determined by the independent consultant. Further, all services will be reviewed by utilization review for medical necessity and bills for such services screened for appropriateness of charges. Services provided that are deemed not medically necessary are not reimbursable and the employer is held harmless. In no event is the employee responsible or held liable for any charges as-

sociated with an authorized workers' compensation claim. To ensure compliance of providers, insurance carriers, and self-insurers, the director may provide by rule for the review and audit of insurance carriers and self-insurers, individual and group, of payments for medical services. The director may maintain a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, treatment patterns, and adjudication methods for use in administering this act.

(h) Health care providers, claims payors, and insurers operating in Alabama shall, at the director's request, provide the director such data as he or she deems necessary to evaluate costs and quality and shall be provided in the form and content to the director's specifications and in a manner deemed timely by the director. The director may gather from health care claims intermediaries that operate in Alabama any claims data related to diagnoses and procedures encountered in the treatment of workers'-compensation-type injury and illness in Alabama. The director shall also gather data from hospitals and other providers of health services relating to quality of care and outcome of treatment. Results from all data gathered shall be made available to employers or their representatives for use in decisions regarding the direction of care or to determine appropriateness of reimbursement.

(i) Beginning immediately and to be completed within six months, the director may engage an independent firm to identify the initial costs for the program. These initial expenses shall include, but not be limited to, the establishment of a data base to determine prevailing rates, and the conducting of cost analysis for appropriate reimbursement rates to hospitals and other facilities.

(j) A person who performs services for the director pertaining to the policies of any advisory committee or board is immune from civil liability against any claim arising out of or related to any decision made in good faith, and without malice, and predicated upon information which was then available to the person. Immunity from liability under this section does not apply to a person providing medical treatment to an injured employee.

(k) Notwithstanding any other provision of this section to the contrary, it is the intent of this section that all payments for medical services rendered by physicians as defined in Section 46 of this act shall be governed exclusively by the provisions of Section 49 of this act and shall not be subject to any other provision of this act relating to prevailing rate of reimbursement, and that any and all utilization review, bill screening, medical necessity determinations or audits which relate to

the services of physicians as defined in Section 46 of this act shall only be conducted under and in accordance with policies, guidelines or regulations approved by the Workers' Compensation Medical Services Board under the provisions of Section 48 of this act.

(l) Notwithstanding the provisions of subsections (e), (f), (g), (h) and (i) above, neither the director nor any person, firm, corporation, or organization under contract with or acting on behalf of the director shall be authorized to conduct any field audit or to collect from any source any data on medical charges, actual payments, treatment plans, treatment patterns, or adjudication methods concerning any physician licensed to practice medicine in this state, it being the intent of this act that any such activities shall be within the authority of the Workers' Compensation Medical Services Board.

Section 42. (a) All letters, reports, communications, and other matters, written or oral, from employer or employee to each other, to the director, any of his or her agents, representatives, or employees, or to any official or board functioning under this act, which have been written, sent, delivered, or made in connection with the requirements and administration of this act, shall be absolutely privileged. Information obtained from the above mentioned matters shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or open to public inspection in any manner. Any person violating this section shall be fined not less than twenty dollars (\$20) nor more than two hundred dollars (\$200), or imprisoned for not longer than 30 days, or both.

(b) The director may make summaries, compilations, photographs, duplications, or reproductions of any records as he or she may deem advisable for the effective and economical preservation of the information contained therein. The documentation, duly authenticated, shall be admissible in any proceeding under this act if the original record or records would have been admissible therein.

(c) The director may upon specific request therefor, furnish to any public agency a workers' compensation record in his or her custody, if the agency makes payment of a reasonable cost therefor.

(d) At his or her discretion, the director may release information to institutions of higher education, or a federal government corporation upon payment of a reasonable cost therefor, for the purpose of making economic analyses. The institution or federal government corporation must agree in writing that information so obtained shall not be published or released by it to any person in a manner to permit the identification of any specific individual or employing unit.

(e) The director may afford reasonable cooperation with any agency of the United States or any state agency charged with the administration of any workers' compensation laws.

(f) The director may upon specific request release a workers' compensation record or information therein to any public official or to any law enforcement officer if the release is deemed by the director to be necessary for the performance of the official's or officer's duties and upon payment of a reasonable cost therefor in accordance with any regulations the director may prescribe.

(g) Any person who willfully makes a false statement or representation to obtain any information under this section, either for himself or herself or for any other person, who uses any information for any purpose other than in the performance of his or her official duties, or in any other manner misuses the information, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than three nor more than 12 months, or by both fine and imprisonment.

WORKERS' COMPENSATION MEDICAL SERVICES BOARD

Section 43. For the purposes of this new article the following words and phrases have the following meanings:

(1) BOARD. The Workers' Compensation Medical Services Board.

(2) MEDICAL or MEDICAL SERVICES. Any and all medical or surgical services provided by physicians under this new article.

(3) PHYSICIAN. A doctor of medicine or doctor of osteopathy licensed to practice medicine.

Section 44. There is established a Workers' Compensation Medical Services Board composed of five physicians licensed to practice medicine in the State of Alabama who shall be appointed by the Director of the Department of Industrial Relations. The initial board shall be selected from physicians who are members of the Medical Association of the State of Alabama from a list submitted by the association.

Members of the board shall serve terms of five years. In order that the appointments be staggered, one member shall serve an initial term of six years; one member shall serve an initial term of two years;

one member shall serve an initial term of three years; one member shall serve an initial term of four years; and the remaining member shall serve an initial term of five years. Thereafter, successors shall be appointed by the director from among a list of three nominees submitted by the Medical Association of the State of Alabama to serve full five-year terms. A member of the board shall continue to serve beyond the expiration of his or her term of office until his or her successor is legally appointed. Members of the Workers' Compensation Medical Services Board shall be eligible to serve two five-year terms of office in addition to an initial or unexpired term of less than three years, but shall not serve thereafter. Members of the board shall be entitled to receive per diem at the rate of one hundred dollars (\$100) per day for each day or portion thereof spent in the performance of the duties of their office and in addition, shall be reimbursed for expenses of travel in the same manner as employees of the State of Alabama.

The Workers' Compensation Medical Services Board shall function as a part of the State Department of Industrial Relations and shall have the authority, duties, and responsibilities as prescribed in this act. The board shall meet quarterly at a time and place designated by the chairman, and may meet more frequently at the call of the chairman. The board shall elect one of its members as chair who shall serve a term of one year. The board may adopt rules governing its own proceedings. The department shall provide the board with necessary meeting and office space, secretarial and clerical support, reimbursement for travel expenses and per diem as specified in this act. Upon approval of the director, additional funding as required by the board for the employment of consultants, attorneys, and other professional staff necessary to accomplish the purposes and objectives stated in this act may be provided.

Section 45. The board shall exercise general supervision in all matters related to the provision of medical services provided by physicians as defined in this new article rendered to workers under this act. The duties of the board shall include, but are not limited to, the following:

- (1) Study, develop, and implement any necessary and reasonable guidelines for medical services and physician care provided by physicians as defined in this new article, and medical necessity determinations for medical services under this new article.
- (2) Study, design, and implement standardized uniform claims processing forms and forms for the reporting of medical information to employers and insurance companies by physicians as defined in this new article.

(3) Study, devise, create, and implement a dispute resolution system for medical services provided by physicians as defined in this new article. The decision of the board shall constitute final administrative action, subject only to judicial review under the Alabama Administrative Procedure Act.

(4) Study, devise, and develop a uniform system of utilization review and quality assurance which may be recommended to the Director regarding medical services provided by physicians as defined in this new article and provided to workers herein.

(5) Address and give consideration to those matters referred to it by the director.

(6) The board shall contract with physicians, health care providers, professional associations of physicians, and health-related organizations to provide to the board consultation, and research and development expertise in discharging its duties and responsibilities under this new article. Any contract entered into by the board shall be approved as are other state contracts.

(7) The board may establish, by regulations promulgated by the department, regional committees of physicians appointed by the board to perform any duties and responsibilities specified by the board in programs established for the delivery of medical services under this act. Members of the regional committees shall be physicians as defined in this new article and shall serve at the pleasure of the board. Physicians as defined in this new article serving as members of the regional committees as constituted under this section shall be granted the same immunities as provided to members of the board under this act and existing state law.

(8) Implementation of this section shall be governed by and subject to the Alabama Administrative Procedure Act. Rules and regulations relating to the duties and authority of the board, enumerated herein, may be promulgated only with the consent of both the director and the board.

Section 46. Within 60 days from the effective date of this act, but not before April 30, 1992, the board shall submit to the Governor an initial schedule of maximum fees for medical services covered by this new article, which schedule shall become effective immediately upon submission to the Governor. The initial schedule of maximum fees shall be established by the board in the manner prescribed in this section. The fee for each service in the schedule shall be exactly equal to an

amount derived by multiplying the preferred provider reimbursement customarily paid on April 15, 1992, by the largest health care service plan incorporated pursuant to Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975, by a factor of one point one zero (1.10), which product shall be the maximum fee for each such service. In addition the board may submit to the Governor for approval on or after July 1, 1992, a revised schedule of selected fees for medical services covered by this new article, which fees shall not exceed the fees established in the initial schedule of fees by more than five percent.

The revisions to the initial schedule of maximum fees submitted by the board to the Governor for approval on or after July 1, 1992, but not individual fees or separate portions thereof, shall be subject to acceptance or rejection by the Governor. If the revisions to the initial schedule of maximum fees are rejected by the Governor, they shall be referred to the board for further consideration and the initial schedule of maximum fees shall continue to be in effect until the Governor and the board reach agreement. The schedule of maximum fees and any additions, deletions, corrections, or changes thereto shall not be considered a rule or regulation requiring publication under the Alabama Administrative Procedure Act. It is the express legislative intent that the Workers' Compensation Medical Services Board shall have the discretion to establish a system of maximum fees under this section for services rendered by physicians as defined in this new article to employees covered by the Workers' Compensation Law and that the schedule of fees shall replace and supplant traditional competitive market mechanisms in the interest of obtaining quality physician services in a cost effective manner. The board shall annually adjust the schedule of fees established pursuant to this section by increases which shall be no more than the annual increase in the cost of living as reflected by the U. S. Department of Labor consumer price index. The board may, from time to time, add to or adjust the schedule of fees in response to changes in technology and medical practice, subject only to the right of the Governor to accept or reject the addition or adjustment made by the board, and to refer to the board for further consideration any additions or adjustments which he or she may reject. In the event that at any time a state or federal tax, levy, fee, or assessment is imposed or assessed on physicians licensed to practice medicine which tax, levy, fee, or assessment is based in whole or in part upon the provision of professional services in connection with the practice of medicine, then, in such event, the board may, subject to the approval of the Governor, within three months of the effective date of such tax, levy, fee, or assessment issue a revised schedule of maximum fees which increases the maximum fee for each service reflected therein by an amount which shall be no more than the rate fixed by law of such tax, levy, fee, or assessment. This provision shall not be construed to in-

clude income or sales tax increases. The liability of the employer for the payment of services rendered by physicians shall not exceed those maximum fees established by the board and approved by the Governor. The employees shall not be liable to the physician for any amount in excess of the schedule of maximum fees established by the board and approved by the Governor.

Section 47. Notwithstanding any other provisions of this act to the contrary, any employer, workers' compensation insurance carrier, self-insured employer, or group fund, shall have the right to contract with physicians for the provision of medical services to injured workers at any rates, fees, or levels of reimbursement which shall be mutually agreed upon between the physician and such employer, workers' compensation insurance carrier, self-insured employer, or group fund.

Section 48. The Workers' Compensation Medical Services Board, the individual members thereof, the agents, servants, employees, consultants, or attorneys of the board, and any person, firm, or corporation contracting with the board for the specific purpose of implementing the duties, obligations, and responsibilities of the board under this act, shall each be immune from civil liability against the claims of any and all individuals, firms, corporations, institutions, or other entities for any claims of any nature whatsoever arising out of or related to the decisions, opinions, deliberations, reports, or publications which are made, rendered, or entered by the board, the individual members of the board, or the agents, servants, employees, consultants, or attorneys of the board or any person, firm, or corporation contracting with the board which decisions, opinions, deliberations, reports, or publications were made in good faith, without malice, and predicated upon information which was then available to the board.

Section 49. Premium Incentives for Small Employers.

(a) In this act "small employer" means an employer who regularly employs fewer than 50 employees.

(b) The Department of Insurance shall promulgate a plan by which all insurance companies writing workers' compensation insurance in this state shall grant a discount to small employers who qualify under this act and by which surcharges are assessed against small employers who experience two or more employee compensable lost-time injuries during a one-year period.

(c) A small employer who has not experienced a compensable employee lost-time injury during the most recent one-year period for

which the statistics are available shall receive a discount of 10 percent on the amount of the employer's workers' compensation insurance premium.

(d) A small employer who has not experienced a compensable employee lost-time injury during the most recent two-year period for which statistics are available shall receive a discount of 15 percent on the amount to the employer's workers' compensation insurance premium.

(e) A small employer who has experienced one compensable employee lost-time injury during the most recent one-year period for which statistics are available is not eligible for a discount on the amount of the employer's workers' compensation insurance premium.

(f) A small employer who has experienced two or more compensable employee lost-time injuries during the most recent one-year period for which statistics are available shall be assessed a surcharge of 10 percent on the amount of the employer's workers' compensation insurance premium.

Section 50. Optional Deductible Plans. (a) The department shall require each company or association that writes workers' compensation insurance in this state to offer optional deductible plans to allow policyholders to self-insure for the deductible amount.

(b) Not later than July 1, 1992, the department shall promulgate at least three plans with varying deductible options. In addition, the department by rule shall permit an employer to enter into an agreement with an insurer for a negotiated deductible in excess of the largest promulgated deductible.

(c) The department shall perform an actuarial analysis to determine the amount of rate reduction applicable to policies under this article as opposed to standard policies without a deductible. In subsequent years, the department shall determine the amount of rate reduction according to rate procedures adopted by it. When establishing procedures for the calculation of experience modifiers, the department may allow the exclusion of the claim amounts paid under the deductible by the employer.

(d) A deductible policy must provide that the company or association will make all payments for benefits that are payable from the deductible amount and that reimbursement by the policyholder shall be made periodically, rather than at the time claim costs are incurred. The department shall promulgate rules that provide for adequate security for

reimbursement of the amount paid by the company or association which is payable from the deductible.

(e) The company or association shall service all claims that arise during the policy period, including those claims payable, in whole or in part, from the deductible amount.

(f) A person who is employed by a policyholder who self-insures the deductible amount as provided under this act may not be required to pay any of the deductible amount.

Section 51. (a) There is established in the State Treasury a fund entitled the Workers' Compensation Administrative Trust Fund, into which shall be deposited certain assessments provided under Chapter 5 (commencing with Section 25-5-1) of Title 25 of the Code of Alabama 1975, collected by the department. The fund shall constitute a separate fund to be disbursed by the State Comptroller on order of the director. All expenses incurred by the department under the Workers' Compensation Law, including the salaries of all employees, travel cost, and any other cost of administration and enforcement as may become necessary, either within or without the state, shall be paid from the separate fund in the State Treasury upon warrants of the State Comptroller drawn upon the State Treasury from time to time when vouchers therefor are approved by the director. The State Treasurer shall pay monies from the separate fund upon the order of the director. The total expense for every purpose incurred shall not exceed the total assessment collected and paid into the fund. The total expense for every purpose incurred in implementing this act shall not exceed the amount appropriated by the Legislature in the general fund appropriation act. No funds shall be withdrawn or expended except those budgeted and allocated in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41 of the Code of Alabama 1975. All monies remaining unexpended in the separate fund at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided. Included in the budget shall be an amount of money allocated for the specific and exclusive purpose of paying only benefits to the claimants who have qualified to receive benefits from the Second Injury Trust Fund on the effective date of this act. Payments of these benefits shall be made weekly. The director shall each week make requisitions to the State Comptroller who shall draw warrants on the State Treasurer for the weekly compensation amount. The warrants shall be drawn only if there are sufficient monies in the treasury for immediate payment. Claims shall take priority in an ascending numerical order according to the time of the accident, and the time shown in the settlement between the employer and employee shall be prima facie evidence of the time of the

accident. No funds allocated for the payment of benefits from the fund shall be used to pay lump-sum attorney's fees. Payment shall resume at the end of the first week of the fiscal year in which the Legislature approves the requested budget for the Workers' Compensation Administrative Trust Fund. The claimants who were receiving weekly benefits from the Second Injury Trust Fund as of August 31, 1991, shall be paid all weekly benefits due to date and the benefits shall be continued for the duration of claim. Those amounts will be paid from the monies as allocated.

(b) The State Treasurer shall determine if the money in the trust fund shall be kept in cash or invested. The moneys in the fund may be invested by the State Treasurer and all moneys and interest remaining unexpended in the separate fund provided at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided.

(c) The director is designated as trustee of the fund and the State Treasurer is designated as custodian of the fund, and both shall furnish bonds in amounts deemed appropriate. The cost of bonds for the trustee, custodian, and other employees or officials required to post bond in connection with the program shall be paid out of the fund.

(d) Each insurance carrier, self-insured employer, and group fund shall be assessed two hundred fifty dollars (\$250). The gross claims for compensation and medical payments paid by the carriers, self-insured employers, and group funds are the basis for computing the amount to be assessed. The amount of assessment shall be based upon the proportion that the total gross claims for compensation and medical payments paid by the carrier, self-insured employer, or group fund during the preceding calendar year bore to the total gross claims for compensation and medical payments paid by all carriers, self-insured employers, and group funds during that period. The total assessment shall not exceed seven million dollars (\$7,000,000) per year. The director shall determine if the assessment shall be a specific amount or shall be a percentage of gross claims for compensation and medical payments paid by the insurance carriers, self-insured employers, and group funds. An assessment shall not exceed an amount reasonably necessary to defray the necessary administration expense.

(e) The department shall provide by regulation for the collection of the amounts assessed against each insurance carrier, self-insured employer, and group fund. The amounts shall be paid within 30 days from the date that the notice is served upon the insurance carrier, self-insured employer, and group fund. If the amounts are not paid within that period, there may be assessed, for each 30 days that the

amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount unpaid. The amount of the civil penalty shall be collected at the same time the amount assessed is collected.

(f) If an insurance carrier, self-insured employer, or group fund fails to pay the amounts assessed against it within 60 days from the time the notice is served, the department may suspend or revoke the authorization to the self-insurer and may request that the Department of Insurance revoke the authority of the insurance company to insure workers' compensation.

(g) The department may require from each insurance carrier, self-insured employer, and group fund reports with respect to all payments of compensation and medical payments by the insurance carriers, self-insured employers, or group funds during each calendar year, and may determine the amounts paid by each insurance carrier, self-insured employer, and group fund and may determine the amounts paid by all insurance carriers, self-insured employers, and group funds during the period.

(h) On or before the first day of March of each year, every insurance carrier, self-insured employer, and group fund shall file with the department a statement on the prescribed forms showing the gross claims for compensation and medical payments paid by the insurance carrier, self-insured employer, or group fund during the preceding one-year period ending on the 31st day of December. Any insurance carrier, self-insured employer, or group fund which neglects to file its annual written statement within the time provided in this manner shall pay to the Workers' Compensation Administrative Trust Fund a penalty for each day's neglect in an amount prescribed by rule of the director.

(i) All money collected under this section shall be deposited in the Workers' Compensation Administrative Trust Fund.

Section 52. (a) Within 60 days after the effective date of this act, the director shall assess each insurance carrier, self-insured employer, and group fund its pro rata share of the total amount of up to four million eight hundred thousand dollars (\$4,800,000) according to the method set out in Section 51(d). Of the total amount, eight hundred thousand dollars (\$800,000) shall be allocated to pay weekly benefits to the claimants of the Second Injury Trust Fund until an appropriate budget is approved in accordance with Chapter 4 of Title 41 of the Code of Alabama 1975. The assessment shall be deposited into the Workers' Compensation Administrative Trust Fund and disbursed by the State Comptroller on order of the Director of Industrial Relations.

(b) The assessment is appropriated and made available for the initial implementation costs and expenses of the workers' compensation program to fund activities not included in the general fund appropriation for fiscal year 1991-1992 and fiscal year 1992-1993, which are peculiar to this act.

(c) Any unexpended balance remaining at the end of the fiscal year will be credited to the insurance carriers and self-insured employers at the end of the next fiscal year.

Section 53. All laws or parts of laws which conflict with this act and specifically Section 25-5-16, Sections 25-5-70 to 25-5-75, inclusive, Section 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975, are repealed.

Section 54. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 55. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 56. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Senator Foshee offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, FOR SB 122**

On page 66, after line 21, insert the following language:

(c) All expenses of litigation and attorney's fees charged by any attorney in any representation under the provisions of this chapter while representing any employer, insurance company, or self-insurer shall be disclosed to the judge and all parties in a manner provided by the judge. The attorney's fees and expenses of litigation must be approved by the judge prior to any payment of the attorney's fees or expenses of litigation. In order to be approved by the judge, the attorney's fees and

expenses of litigation must be reasonable and must bear a rational relationship to the value of any contested issue for which the attorney was retained or to the complexities of the services provided by the attorney. In claims where weekly benefits are awarded or established by agreement, it shall be presumed that any fees subject to this subsection are unreasonable when such fees exceed the fees of the claimant's attorney by 15 percent.

Which was adopted.

Senator Windom offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on Page 17 beginning on Line 24 to eliminate the words "containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules"...

Which was lost.

Yeas 10 Nays 16

Yeas:

Senators:

Bennett, Campbell, Corbett, Floyd, Foshee, Langford, Lindsey, Parsons, Sanders, and Windom -10

Nays:

Senators:

Bailey, Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Ghee, Hale, Lipscomb, Little, Mitchell, Owens, Smith (B), Smith (J), and Waggoner -16

Senator Ghee offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 83, lines 4, and 10, delete the number "46" and insert in lieu thereof:

On page 83, line 5 delete the number "49" and insert in lieu thereof the number:

46

On page 83, line 13, delete the number "48", and insert in lieu thereof the number:

45

Which was adopted.

Senator Corbett offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 9, line 22 after the word "treatment" add "Provided, however, rehabilitation service or other person or entity providing treatment, service or equipment shall not include rehabilitation nurses, case management workers, or medical management workers employed by or whose services are contracted for by any employer, insurer, self-insured association, or self-insured trust fund and whose primary duties are case management, medical management, and liaison between the employer/insurer and the injured worker and/or medical providers and the injured worker. The cost of the persons who serve in the position of rehabilitation nurses, care management workers, or medical management workers shall not be included in any expenses of an employer, insurer, self-insured association, or self-insured trust fund upon which the insurance commissioner bases rate schedules for workers' compensation coverage.

Which was adopted.

Senator Langford offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 2, line 13,

after "body" delete remaining portion of line 13 and lines 14, 15 and all of line 16 to the word "providing".

Which was lost.

Yeas 10 Nays 16

Yeas:

Senators:

Bennett, Campbell, Corbett, Floyd, Foshee, Horn, Langford, Lindsey, Parsons, and Sanders -10

Nays:

Senators:

Amari, Bailey, Bolling, Denton, Dial, Dixon, Ellis, Ghee, Lipscomb, Little, Mitchell, Preuitt, Smith (B), Smith (J), Waggoner, and Windom -16

Senator Hale offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 57, line 5, after the word "Alabama," add the words:

as well as diagnostic facilities,

On page 57, line 7, after the word "center," delete the word "or"

On page 57, line 8, after the word "facility" add the words:

or diagnostic facility

Which was adopted.

Senator Langford offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 5, line 17

by inserting the word "undisputed" before the word "medical"

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolution with the original Senate Joint Resolution, and finds same correctly enrolled, to-wit:

SJR 46. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED SERVICE AS PRESIDENT OF THE UNIVERSITY OF MONTEVALLO AND NAMING THE UNIVERSITY'S STUDENT RETREAT IN HIS HONOR.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolution, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 41. MOURNING THE DEATH OF TROOPER ROBERT WILLIAM JONES OF TROY, PIKE COUNTY, ALABAMA.

Also:

SJR 42. COMMENDING GREG BUTRUS OF BIRMINGHAM, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT.

Also:

SJR 43. MOURNING THE DEATH OF ROBERT WILKINS OF MOBILE, ALABAMA.

Also:

SJR 44. COMMENDING EMILY STAPLES HEARIN, 1991 MOBILIAN OF THE YEAR.

Also:

SJR 45. ADOPTING AMERICAN SIGN LANGUAGE AS THE OFFICIAL SIGN LANGUAGE OF THE DEAF IN ALABAMA.

Also:

SJR 47. COMMENDING MANDELYN KAYE HANCOCK OF BIRMINGHAM, ALABAMA.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Langford amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended.

And said Langford Amendment No. 2 was then adopted.

Yeas 18 Nays 8

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Ellis,

Floyd, Ghee, Langford, Lindsey, Mitchell, Owens, Parsons, Sanders,
Waggoner, and Windom -18

Nays:

Senators:

Bailey, deGraffenried, Hale, Lipscomb, Little, Preuit, Smith (B), and
Smith (J) - 8

Senator Waggoner offered the following amendment to the
deGraffenried substitute, as amended by the Mitchell substitute No. 2, as
amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 29, on line 14, before the word "This," insert the
following paragraph:

The provisions of this section shall not be construed to mandate
any school board to provide coverage until sufficient funds are
appropriated from the Special Educational Trust Fund to implement the
provisions. Nothing contained herein shall prohibit any school board
that voluntarily elects to provide such coverage from doing so with local
or other available funds.

Which was adopted.

Senator Ellis offered the following amendment to the deGraffenried
substitute, as amended by the Mitchell substitute No. 2, as amended, for
the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for to Senate Bill 122 on page
24, line 15, after the word "employee" by inserting the following:

"; however in the event the collectable judgment is less than the
actual medical and vocational benefits paid to date or the judgment is
uncollectable then in that event medical subrogation shall be made"

On motion of Senator Mitchell, said amendment was laid on the
table.

Senator Parsons offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On pages 27 and 28, delete all the language in Section 25-5-50 and insert in lieu thereof:

"§25-5-50.

"This article and Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employee of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; or to any an employer who regularly employs less than three 10 employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. Any An individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three 10 employees in any one business; any farmer, a farm-labor employer; an employer of a domestic employee; or any a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to the provisions of this article and Article 2 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said the employer; provided further, that any an employer who has so elected to accept the provisions of this article and Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal. Notwithstanding the foregoing, any insurance company that provides workers' compensation coverage to any employer employing 10 or more employees shall provide workers' compensation coverage to employers employing less than 10 employees.

On motion of Senator deGraffenried, said amendment was laid on the table.

Yeas 14 Nays 11

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, deGraffenried, Denton, Dial, Dixon,
Ellis, Hale, Mitchell, Smith (B), Smith (J), and Waggoner -14

Nays:

Senators:

Bennett, Floyd, Foshee, Langford, Lindsey, Little, Parsons, Preuit,
Sanders, Wilson, and Windom -11

Senator Bedsole offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for Senate Bill No. 122, on Page 80, Line 19, as follows:

After the word "director" insert the following:

"except as otherwise provided in this act,"

Further amend as follows:

page 80, line 24, by striking "shall contract"

Further amend as follows:

page 80, line 25, by striking "with an independent firm to" and insert "may"

Further amend as follows:

page 82, line 4 by striking "Health care providers,"

Further amend as follows:

Page 82, line 13 after the period "." strike the remainder of the line

Further amend as follows:

page 82, delete line 14 in its entirety.

Further amend as follows:

page 82, line 15 delete "relating to quality of care and outcome of treatment."

Which was adopted.

Senator Campbell offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 98 by deleting lines 1, 2, and 3 in their entirety and substitute "Section 56. This act shall become effective January 1, 1993, upon its passage and approval by the Governor, or upon its otherwise becoming a law. This act shall apply to all compensable claims on or after January 1, 1993."

Which was adopted.

Senator Ellis offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for Senate Bill 122 on page 24, line 15, after the word "employee" by inserting the following:

"; however in the event the collectable judgment is less than the actual medical and vocational benefits paid to date or the judgment is uncollectable then in that event medical subrogation shall be made and allowed"

On motion of Senator Lindsey, said amendment was laid on the table.

Yeas 17 Nays 13

Yeas:

Senators:

Bennett, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Sanders, Waggoner, Wilson, and Windom -17

Nays:

Senators:

Bailey, Barron, deGraffenried, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Owens, Preuitt, Smith (B), and Smith (J) -13

Senator Bailey offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for Senate Bill 122 on page 7, line 11, after the word "earning" by removing the period and inserting the following:

" , based on those earnings subject to federal income taxation and reportable on the Federal W-2 tax form which shall include voluntary contributions made by the employee to a tax-qualified retirement program, voluntary contributions to a Section 125 cafeteria program, and fringe benefits as defined herein."

Senator Floyd moved that said amendment be laid on the table, which motion was lost.

Yeas 12 Nays 16

Yeas:

Senators:

Bennett, Campbell, Corbett, Floyd, Foshee, Hilliard, Horn, Langford, Lindsey, Mitchell, Sanders, and Wilson -12

Nays:

Senators:

Amari, Bailey, Barron, Denton, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Owens, Parsons, Smith (B), Smith (J), Waggoner, and Windom -16

And said amendment was then adopted.

Yeas 18 Nays 11

Yeas:

Senators:

Amari, Bailey, Barron, deGraffenried, Denton, Dial, Dixon, Ellis, Foshee, Hale, Lipscomb, Little, Owens, Preuit, Smith (B), Smith (J), Waggoner, and Windom -18

Nays:

Senators:

Bennett, Campbell, Corbett, Floyd, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, and Sanders -11

Senator Mitchell offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 62, delete all language on lines 22 and 23 and insert in lieu thereof the following:

Sections 25-5-80 and 25-5-81 of the Code of Alabama 1975 are amended to read as follows:

On page 63, after line 25, insert the following:

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such controversy shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be

conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, as it is provided for in this article, the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury upon appearing, the employee may demand a jury to try such issues by filing his demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to wilful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up such defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. -- If at any time there are adverse claimants to compensation under this article, the employer, in submitting said claim to said circuit court, may suggest in writing said claimants, and they shall be required to interplead. Said court shall determine and order to which claimant or claimants such compensation is justly due, and said employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals and such review shall be as in cases reviewed by certiorari.

"(e) Interpleader of adverse claimants to compensation. If at any time there are adverse claimants to compensation under this article, the employer, in submitting the claim to the circuit court, may suggest in writing the claimants, and they shall be required to interplead. The court shall determine and order to which claimant or claimants compensation is justly due, and the employer, upon complying with the order, shall be released from the claims of any other claimants thereto.

"(f) Discovery. Methods of discovery shall be determined and established in rules promulgated by this act and the rules established by the Alabama Rules of Civil Procedure with the limitations of pre-trial discovery as set forth below. Additionally, the following rules of discovery shall apply to worker's compensation cases:

"(1) Two depositions for each side shall be permitted without leave of court, however, any additional depositions shall not be permitted without leave of court for good cause shown.

"(2) Notwithstanding the limitations in (1) above, each party shall have the right to take the deposition of every other party.

"(3) Interrogatories shall not be permitted without leave of court for good cause shown.

"(4) Relevant and material records of the employee and employer, including but not limited to payroll records, may be admissible without testimony.

"(5) Certified copies of records, documents, and affidavits shall be self-authenticating without need of testimony, provided, however, certified sealed copies of records of medical treatment and charges therefor, whether from a physician, hospital, clinic, or other provider, shall be admitted into evidence in accordance with Alabama Rules of Civil Procedure, Rule 44(h), without further need for authenticating testimony. Copies of records obtained by one party shall be furnished by certified mail to the other party not less than 14 days prior to trial, unless the party offering the records can establish unusual circumstances justifying their admission despite the failure to make the exchange.

"It is the intent of this section that limited discovery shall be available."

Which was adopted.

Yeas 29 Nays 2
Abstaining 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom

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Nays:

Senators:

Hilliard and Horn

- 2

Abstaining: Senator Smith (J)

- 1

Senator Mitchell then offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 of page 62, line 25, by inserting before the word "In" the letter "(a)".

Further amend on page 63 after line 25 by inserting the following:

"(b) The decision of the court shall be based on a preponderance of the evidence as contained in the record of the hearing, except in cases involving injuries which have resulted from gradual deterioration or cumulative physical stress disorders, which shall be deemed compensable only upon a finding of clear and convincing proof that those injuries arose out of and in the course of the employee's employment. For purposes of this section, clear and convincing shall mean evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt."

Senator Floyd moved that said amendment be laid on the table, which motion was lost.

Yeas 10 Nays 19

Yeas:

Senators:

Bennett, Campbell, Corbett, Floyd, Hilliard, Langford, Lindsey, Parsons, Sanders, and Wilson

-10

Nays:

Senators:

Amari, Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Ghee, Hale, Lipscomb, Little, Mitchell, Owens, Preuit,

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Smith (J), Waggoner, and Windom

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And said amendment was then adopted.

RECESS

At 6:10 P.M., Senator Amari moved that the Senate take a recess until 7:40 P.M., which motion was lost.

At 6:12 P.M., on motion of Senator Mitchell, the Senate took a recess until 7:30 P.M.

At 7:30 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended.

Senator Waggoner offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 57, line 9, delete the words "expenditure for diagnosis and"

Also, on page 57, line 9, delete the words "comparable type" and insert in lieu thereof the words workers' compensation

Which was adopted.

Yeas 28 Nays 0

Yeas:

Senators:

Amari, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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Nays:

- 0

Senator Floyd offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 77, line 3, after the word "shall" delete the remainder of line 3, entire lines 4, 5, and 6, add after the word "shall" on line 3 "not be effective unless and until approved by the circuit court."

Which was adopted.

Senator Floyd offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended for SB 122 on page 77, line 7, after the word "signed" delete the words "pursuant to this section" and add "and approved by the Circuit Court with notice given to the employer as to the settlement, attorneys fees and cost

Which was adopted.

Senator Wilson offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 Page 24 Line 15, as follows:

after the word expended insert "by the employer"

Which was adopted.

Senator Lindsey offered the following amendment to the

deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 30, line 26, after the word "accident" delete "or"

Further amend on page 30, line 27, by deleting "occupational disease".

Which was adopted.

Senator Windom offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 62, delete all language on lines 22 and 23 after 'Section 24' and insert in lieu thereof the following:

Sections 25-5-80 and 25-5-81 of the Code of Alabama 1975 are amended to read as follows:

On page 63, after line 25, insert the following:

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such controversy shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing

under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, as it is provided for in this article, the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury upon appearing, the employee may demand a jury to try such issues by filing his demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to wilful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up such defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. -- If at any time there are adverse claimants to compensation under this article, the employer, in submitting said claim to said circuit court, may suggest in writing said claimants, and they shall be required to interplead. Said court shall determine and order to which claimant or claimants such compensation is justly due, and said employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals and such review shall be as in cases reviewed by certiorari.

"(e) Interpleader of adverse claimants to compensation. If at any time there are adverse claimants to compensation under this article, the employer, in submitting the claim to the circuit court, may suggest in writing the claimants, and they shall be required to interplead. The

court shall determine and order to which claimant or claimants compensation is justly due, and the employer, upon complying with the order, shall be released from the claims of any other claimants thereto.

"(f) Discovery. Methods of discovery shall be determined and established in rules promulgated by this act and the rules established by the Alabama Rules of Civil Procedure with the limitations of pre-trial discovery as set forth below. Additionally, the following rules of discovery shall apply to worker's compensation cases:

"(1) Two depositions for each side shall be permitted without leave of court, however, any additional depositions shall not be permitted without leave of court for good cause shown.

"(2) Notwithstanding the limitations in (1) above, each party shall have the right to take the deposition of every other party.

"(3) No more than 25 interrogatory questions with each sub-part to be considered a question shall be permitted without leave of court for good cause shown.

"(4) Relevant and material records of the employee and employer, including but not limited to payroll records, may be admissible without testimony.

"(5) Certified copies of records, documents, and affidavits shall be self-authenticating without need of testimony, provided, however, certified sealed copies of records of medical treatment and charges therefor, whether from a physician, hospital, clinic, or other provider, shall be admitted into evidence in accordance with Alabama Rules of Civil Procedure, Rule 44(h), without further need for authenticating testimony. Copies of records obtained by one party shall be furnished by certified mail to the other party not less than 14 days prior to trial, unless the party offering the records can establish unusual circumstances justifying their admission despite the failure to make the exchange.

"It is the intent of this section that limited discovery shall be available."

Which was adopted.

On motion of Senator deGraffenried, the Rules were suspended and further consideration of the Bill, SB 122, and pending deGraffenried

substitute, as amended by the Mitchell substitute No. 2, as amended, was postponed subject to the call of the Chair.

REPORT OF COMMITTEE

Senator Preuit, Chairperson of the Standing Committee on Rules reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Foshee:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

By Senator Foshee:

S. 247. To amend Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15 and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies so as to provide further for the regulation of such companies; to delete certain references to and authorization for designated agents; to provide for a maximum service charge; to require premium finance agreements to contain certain information; to substantially alter the procedure for return of gross unearned premiums upon cancellation of the insurance contract; to provide for time limits for the return of unearned premiums; and to provide where the amount of premium financed shall be sent.

By Senator Bailey:

S. 86. To amend Section 25-4-10, Code of Alabama 1975, which defines the term "employment" for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

By Senators Dixon and Langford:

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees

related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

By Senator Dixon:

S. 252. To provide for the offense of carrying firearms on school premises or while being transported to or from school or a school-related activity on transportation provided by the school; and to prescribe penalties.

By Senator Ghee:

S. 336. To amend Section 21-4-22 of the Code of Alabama 1975, to require that certain guidelines to assure accessibility of registration and polling places for handicapped and elderly individuals apply at all elections.

By Senator Ghee:

S. 340. To amend Section 17-4-153 of the Code of Alabama 1975, relating to the mileage allowance of members of boards of registrars.

By Senator Denton:

S. 272. To amend Section 8-17-217, Code of Alabama 1975, relating to permissible fireworks, to exclude bottle rockets specifically from the definition of fireworks that may be sold within the state by establishing minimum size requirements for sky rockets, but to provide that such devices may be stored by licensed manufacturers, distributors and wholesalers within the state for sale outside the state, and to provide for an effective date.

By Senator Mitchell:

S. 118. To amend Sections 32-6-230, 32-6-231, 32-6-232, 32-6-233, 32-6-234, and 40-12-300, of the Code of Alabama 1975, relating to motor vehicle registration and license tags and placards of handicapped persons; and to establish license fees.

RESOLUTIONS

Senator Corbett requested and received permission to suspend the

Rules in order to offer the following Senate Resolution, to-wit:

SR 53. RELATIVE TO ADJOURNMENT.

BE IT RESOLVED BY THE SENATE OF ALABAMA, That the provisions of Senate Resolution 50 relating to adjournment after Wednesday, March 11, 1992, are hereby repealed.

BE IT FURTHER RESOLVED That when the Senate adjourns today, Wednesday, March 11, 1992, the Senate adjourns to meet again on Thursday, March 12, 1992, at 11:00 a.m.

On motion of Senator Corbett, the Resolution was adopted by the Senate.

Senator deGraffenried requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 54. AUTHORIZING THE ATTORNEY GENERAL OR THE SECRETARY OF STATE TO ACT ON BEHALF OF THE SENATE IN MATTERS REGARDING CONGRESSIONAL REDISTRICTING.

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That the Attorney General may intervene on behalf of the Senate of Alabama in all legal matters concerning the redistricting of the United States Congressional districts in Alabama including, but not limited to, legal matters concerning Act No. 92-63, S. 73 of the 1992 Regular Session and the review of this act by the United States Department of Justice, legal matters concerning the case of Wesch v. Hunt (Civil Action #91-0787, U. S. District Court, Southern District of Alabama), and legal matters concerning redistricting that are the subject of any federal court hearing. The Attorney General or the Secretary of State may, on behalf of the Senate of Alabama, appeal to all appropriate appellate levels, including the United States Supreme Court, any legal matter concerning redistricting of the United States Congressional districts in Alabama including, but not limited to, the case of Wesch v. Hunt.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered to the Attorney General and the Secretary of State.

Which was read and referred to the Standing Committee on Rules.

MOTION TO ADJOURN LOST

At 9 o'clock P.M., Senator Bedsole moved that the Senate adjourn

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until Thursday, March 12, 1992, at 11 o'clock A.M., which motion was lost.

Yeas 9 Nays 18

Yeas:

Senators:

Amari, Bedsole, Dixon, Ellis, Hale, Hilliard, Horn, Lipscomb, and Waggoner - 9

Nays:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Foshee, Langford, Lindsey, Little, Preuit, Sanders, Smith (B), and Wilson -18

REPORT FROM RULES

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following Senate Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

SR 54. AUTHORIZING THE ATTORNEY GENERAL OR THE SECRETARY OF STATE TO ACT ON BEHALF OF THE SENATE IN MATTERS REGARDING CONGRESSIONAL REDISTRICTING.

Senator Dixon offered the following amendment to the Resolution, SR 54, to-wit:

AMENDMENT TO SR 54

Amend SR 54 Page 1 Line 14, as follows:

delete the word "concerning" and insert in lieu thereof: except.

On motion of Senator deGraffenried said amendment was laid on the table.

And on motion of Senator deGraffenried, said Resolution, SR 54, was then adopted by the Senate.

Yeas 19 Nays 7

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,

Denton, Floyd, Foshee, Langford, Lindsey, Mitchell, Owens, Preuit, Smith (B), Smith (J), Wilson, and Windom -19

Nays:

Senators:

Amari, Bedsole, Dixon, Hale, Lipscomb, Little, and Waggoner - 7

ADJOURNMENT

At 9:15 P.M., on motion of Senator deGraffenried, in accordance with Senate Resolution heretofore adopted, the Senate adjourned until Thursday, March 12, 1992, at 11 o'clock A.M.

FIFTEENTH LEGISLATIVE DAY

THURSDAY, MARCH 12, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Bobby Denton, First Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Suzanne Dart, St. James School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fourteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, March 17, 1992, at 2 o'clock P.M., which motion was adopted.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 253. To amend Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots for the 1992 election cycle only, and to shorten the time period for the filing of declarations of candidacy, and for the certification of candidates only for the 1992 U. S. House of Representatives election cycle, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

having been postponed on the Fourteenth Legislative Day was taken up. The question was on the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, which said deGraffenried substitute is set out in the Journal of the Senate for the Thirteenth Legislative Day, and said Mitchell substitute No. 2 and amendments are set out in the Journal of the Senate for the Fourteenth Legislative Day.

Senator Hale offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 as follows:

1. At page 61 Section 22 line 10 by striking the words "prescribed and approved by the director." and substituting the words "specified in Section 4 of this act."

2. At page 61 Section 22 line 13 by striking the words "claim reimbursement forms for physicians licensed to" and by striking lines 14 through 33 inclusive, and on page 62 by striking lines 1 and 2 in their entirety and substituting the following:

"If the employer or insurer responsible for payment of the claim fails to add the additional 10 percent to the claim as required by this section, the person, firm, corporation, or partnership providing the medical service for which payment has been delayed beyond the period specified in this section may file a written complaint stating such fact with the director. Upon investigation, if the director determines that the

facts stated in such complaint are true, then in such event the director shall order the employer or insurer to pay to such provider the amount of the claim and/or any applicable penalty, and in addition may assess a civil monetary penalty in amount not to exceed \$500.00 against the employer or insurer, payment of which must be made to the director within thirty days of the notice of assessment.

Which was adopted.

Senator Little offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 27, delete all the language on lines 30 to 34, inclusive.

On page 28, delete all the language on lines 1 to 23, inclusive, and insert in lieu thereof:

"§25-5-50.

"This article and article 2 of this chapter shall not be construed or held to apply to domestic servants, to farm laborers whose employers have not filed an election to become subject to this chapter or to persons whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession or occupation of the employer or to any employer who regularly employs less than ~~three~~ six employees in any one business or to any municipality having a population of less than 2,000 according to the most recent federal decennial census. Any individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than ~~three~~ six employees in any one business, any farmer, or any municipality having a population of less than 2,000 according to the most recent federal decennial census may accept the provisions of this article and article 2 of this chapter by filing written notice thereof with the department of industrial relations, a copy thereof to be posted at the place of business of said employer; provided further, that any employer who has so elected to accept the provisions of this article and article 2 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal. Notwithstanding the foregoing, any insurance company that provides workers' compensation coverage to any employer employing six or more employees shall provide workers' compensation coverage to employers employing less than six employees.

POINT OF PERSONAL PRIVILEGE

Senator Ellis requested that the Journal show that the Senate convened at 11:30 A.M. today.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 36. Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Pilotage Commission.

Also:

S. 37. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Mine Personnel.

Also:

S. 38. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-22, 34-30-50, and 34-30-52, Code of Alabama 1975.

Also:

S. 39. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Examining Board for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists, and Tree Surgeons; to transfer the duties of the Board to the Commissioner of Agriculture and Industries, and to amend Sections 2-28-1 to 2-28-5, inclusive, and 2-28-8 of the Code of Alabama 1975.

Also:

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 42. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 44. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Securities Commission with certain modifications; to amend Sections 8-6-53, 8-6-110, 8-6-111, 8-6-113, 8-6-115, 8-6-116, 8-6-118, and 8-6-119, Code of Alabama 1975.

Also:

S. 46. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners in Psychology with certain modifications; to amend Section 34-26-21, Code of Alabama 1975.

Also:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

Also:

S. 48. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Alcoholic Beverage Control Board.

GREG PAPPAS,
Clerk.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Little amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended.

Senator Ellis moved that said amendment be laid on the table, which motion was lost.

Yeas 13 Nays 17

Yeas:

Senators:

Bailey, Bedsole, Corbett, deGraffenried, Denton, Dial, Dixon, Hale, Lindsey, Mitchell, Owens, Smith (J), and Waggoner -13

Nays:

Senators:

Amari, Barron, Bennett, Bolling, Campbell, Floyd, Foshee, Ghee, Horn, Langford, Lipscomb, Little, Mitchem, Parsons, Preuit, Smith (B), and Wilson -17

And said amendment was then lost.

Yeas 14 Nays 19

Yeas:

Senators:

Bolling, Campbell, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lipscomb, Little, Preuit, Smith (B), and Wilson -14

Nays:

Senators:

Amari, Bailey, Barron, Bennett, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lindsey, Mitchell, Mitchem, Owens, Parsons, Smith (J), Waggoner, and Windom -19

Senator Wilson offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as

amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 77, line 9, by deleting "30" and inserting in its place "60".

Amend the substitute, as amended, for SB 122 on page 77 by deleting lines 20, 21, and 22 in their entirety and substitute "(3) The Circuit Court shall award claimants' attorney a fee for his services in accordance with 25-5-90."

Which was adopted.

Senator Windom offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 41, line 7, by deleting "permanently through no fault of his or her own,"

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 36. Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Pilotage Commission.

Also:

S. 37. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Mine Personnel.

Also:

S. 38. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-22, 34-30-50, and 34-30-52, Code of Alabama 1975.

Also:

S. 39. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Examining Board for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists, and Tree Surgeons; to transfer the duties of the Board to the Commissioner of Agriculture and Industries, and to amend Sections 2-28-1 to 2-28-5, inclusive, and 2-28-8 of the Code of Alabama 1975.

Also:

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

Also:

S. 42. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission.

Also:

S. 44. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Securities Commission with certain modifications; to amend Sections 8-6-53, 8-6-110, 8-6-111, 8-6-113, 8-6-115, 8-6-116, 8-6-118, and 8-6-119, Code of Alabama 1975.

Also:

S. 46. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners in Psychology with certain modifications; to amend Section 34-26-21, Code of Alabama 1975.

Also:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code

of Alabama 1975.

Also:

S. 48. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alcoholic Beverage Control Board.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Windom amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended.

On motion of Senator Mitchell, said amendment then was laid on the table.

Senator Mitchell then offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE, AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED, FOR SB 122

Amend the substitute, as amended, for Senate Bill 122 on page 24, line 15, after the word "employee" by inserting the following:

"; however in the event the collectable judgment is less than the actual medical and vocational benefits paid to date or the judgment is uncollectable then in that event medical subrogation shall be made and allowed"

and Further amend on line 18 Page 27 delete "." and add:

", if and only if the employer is entitled to subrogation for said medical expenses under subsection (a) of this section."

Which was adopted.

Senator Mitchell then offered the following amendment No. 4 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 4 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 41, line 7, by deleting "permanently through no fault of his or her own,"

Further amend said bill as follows: on line 5, page 41, delete "416" and substitute in lieu thereof "300".

Which was adopted.

Senator Mitchell then offered the following amendment No. 5 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 5 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 83 by adding after (k): "Except as provided in section 47,"

Further amend on page 90, line 21, after "physicians" add ", hospitals, and any other health care provider"

Further amend on page 90, line 24, after "physicians" add ", hospitals, and any other health care provider"

Which was adopted.

Senator Foshee offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 27, delete all the language on lines 30 to 34, inclusive.

On page 28, delete all the language on lines 1 to 23, inclusive, and insert in lieu thereof:

"§25-5-50.

"This article and article 2 of this chapter shall not be construed or held to apply to domestic servants, to farm laborers whose employers have not filed an election to become subject to this chapter or to persons whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession or occupation of the employer or to any employer who regularly employs less than ~~three~~ five employees in any one business or to any municipality having a population of less than 2,000 according to the most recent federal decennial census. Any individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than ~~three~~ five employees in any one business, any farmer, or any municipality having a population of less than 2,000 according to the most recent federal decennial census may accept the provisions of this article and article 2 of this chapter by filing written notice thereof with the department of industrial relations, a copy thereof to be posted at the place of business of said employer; provided further, that any employer who has so elected to accept the provisions of this article and article 2 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

Senator Bailey moved that said amendment be laid on the table, which motion was lost.

Yeas 8 Nays 22

Yeas:

Senators:

Amari, Bailey, Bedsole, Hale, Horn, Smith (J), Waggoner, and Windom - 8

Nays:

Senators:

Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, and Wilson -22

And said amendment was then adopted.

Senator Lindsey offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 75, line 21, after the figures "1993" add "Such benefit review conference shall be held only by agreement of the employer and employee and shall not be deemed mandatory."

Which was adopted.

AMENDMENT RECONSIDERED

On motion of Senator Ellis, the Senate reconsidered the vote by which the Mitchell amendment No. 5 was adopted.

On motion of Senator Ellis, said amendment was laid on the table.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended.

Senator Ellis offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Further amend on page 90, line 21, after "physicians" add ", hospitals, and any other health care provider"

Further amend on page 90, line 24, after "physician" add ", hospitals, and any other health care provider"

Which was adopted.

Senator Lindsey offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 74, line 30, before the word "ombudsmen" add "Providing that the employer and the employee agree to participate in the benefit review conference, the"

Which was adopted.

Senator Lindsey offered the following amendment No. 4 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 4 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122 on page 77, line 16, after the word "report" add "which shall not be admissible into evidence in any court"

Which was adopted.

Senator deGraffenried offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 90, line 25, after the period insert the following language

Prior to becoming effective, any administrative charges of insurance companies must be approved by a majority of an oversight committee composed of the Governor, the Director of the Department of Industrial Relations, the state Commissioner of Insurance, the President of the Business Council of Alabama, and the state Revenue Commissioner.

On motion of Senator deGraffenried, said amendment was laid on the table.

Senator deGraffenried then offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 66, in Section 25-5-90, after line 21, insert the following language:

"(c) All expenses of litigation and attorney's fees charged by any attorney in any representation under the provisions of this chapter while representing any employer, insurance company, or self-insurer must be approved by the judge prior to any payment of the attorney's fees or expenses of litigation, and the Clerk of the Circuit Court in the County where any Worker's Compensation case is filed shall forward to the Department of Industrial Relations a certified copy of the Court order approving the payment of any attorney's fees.

Which was adopted.

Senator deGraffenried then offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 90, line 25, after the period insert the following language

Prior to becoming effective, any administrative charges of insurance companies must be approved by a majority of an oversight committee composed of the Governor, the Director of the Department of Industrial Relations, the state Commissioner of Insurance, the state Revenue Commissioner, the Speaker of the House, and the Lt. Governor.

Which was adopted.

Senator deGraffenried then offered the following amendment No. 4 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 4 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 88, line 23, delete the word "initial"

On page 88, lines 26 to 34, inclusive, delete all language.

On page 89, lines 1 and 2, delete all the language.

On page 88, on line 26, insert the following language:

established by the board at a level not to exceed by more than 5 percent the preferred provider reimbursement customarily paid by the largest health care service plan incorporated pursuant to Section 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

On motion of Senator Corbett, said amendment was laid on the table.

Yeas 26 Nays 6

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, and Windom -26

Nays:

Senators:

Amari, Barron, deGraffenried, Ellis, Mitchell, and Mitchem - 6

Senator Owens offered the following amendment to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for SB 122

On page 91 lines 14, 16, 23 & 28

On page 92 lines 9, 14, 15, 19, 23 & 33

On page 93 line 3

By deleting the word "shall" and substituting therefor the word "may"

On page 92 lines 3-7, delete subparagraph (F).

Senator Mitchell moved that said amendment be laid on the table, which motion was lost.

Yeas 15 Nays 18

Yeas:

Senators:

Amari, Bennett, Campbell, Corbett, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Mitchell, Parsons, Sanders, Smith (J), and Wilson -15

Nays:

Senators:

Bailey, Barron, Bedsole, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Mitchem, Owens, Preuit, Smith (B), Waggoner, and Windom -18

And said amendment was then adopted.

Yeas 18 Nays 11

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Mitchem, Owens, Smith (B), Waggoner, and Windom -18

Nays:

Senators:

Bennett, Campbell, Corbett, Floyd, Ghee, Horn, Langford, Lindsey, Mitchell, Parsons, and Wilson -11

Senator Corbett offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for Senate Bill No. 122 Page

91 Line 31, as follows:

Delete lines 31-33 on page 91; Further delete lines 1-2 on page 92.

Which was adopted.

Senator Little offered the following amendment No. 2 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 2 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

On page 28, on line 23, after the period insert:

The employer shall give written notice to employees or prospective employees that the employer does not carry workers' compensation insurance.

Which was adopted.

Senator Hale offered the following amendment No. 3 to the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, for the Bill, SB 122, to-wit:

**AMENDMENT NO. 3 TO DEGRAFFENRIED SUBSTITUTE,
AS AMENDED BY MITCHELL SUBSTITUTE NO. 2, AS AMENDED,
FOR SB 122**

Amend the substitute, as amended, for Senate Bill 122 on page 77 by deleting lines 20 through 22 in their entirety.

On motion of Senator Mitchell said amendment was laid on the table.

And said deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, was then adopted.

Yeas 20 Nays 12

Yeas:

Senators:

Bedsole, Bennett, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens,

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Sanders, Smith (B), Waggoner, and Windom -20

Nays:

Senators:

Amari, Barron, Bolling, deGraffenried, Dial, Dixon, Ellis, Mitchem, Parsons, Preuitt, Smith (J), and Wilson -12

And said Bill, SB 122, as amended by the deGraffenried substitute, as amended by the Mitchell substitute No. 2, as amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 22 Nays 11

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Sanders, Waggoner, and Windom -22

Nays:

Senators:

Amari, Barron, deGraffenried, Dial, Ellis, Mitchem, Parsons, Preuitt, Smith (B), Smith (J), and Wilson -11

RESOLUTIONS

Senator deGraffenried requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 55. INVITING JUDGE RAY CORNS TO ADDRESS A JOINT SESSION OF THE LEGISLATURE OF ALABAMA.

WHEREAS, Judge Ray Corns of Cabin Creek, Kentucky, is recognized as an expert in the field of education law; and

WHEREAS, Judge Corns is the co-author of Public School Laws, a textbook utilized in over 72 colleges and universities nationwide and has served as the legal advisor for two Governors of Kentucky, the Chief Legal Counsel for the Kentucky Department of Education, an Assistant Attorney General for the State of Kentucky, a Circuit Judge, and is presently serving as Secretary of the Kentucky Justice Cabinet; and

WHEREAS, Judge Corns issued the original opinion in the land-

mark case of *Rose v. The Council for Better Education, Inc.*, in which the system of financing elementary and secondary public schools in Kentucky was declared unconstitutional, resulting in the 1990 Kentucky Education Reform Act that appropriated over \$800,000,000 new dollars for education; and

WHEREAS, Judge Corns, in addition to his legal expertise in education law, is renowned for his wit and wisdom, his column "The Corn Crib" is a regular feature in many newspapers; and

WHEREAS, the State of Alabama is presently at a critical junction in its history, as was Kentucky in 1989, and the observations and remarks of Judge Ray Corns would be of great benefit to the Legislature of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Judge Ray Corns is most respectfully requested to appear before a joint session of the Legislature of Alabama on March 19, 1992, at 11:00 a.m., whereupon the members of the Alabama House of Representatives and the Alabama Senate will assemble in joint session to hear his remarks.

BE IT FURTHER RESOLVED, That the Secretary of the Senate, by copy of this resolution, advise Judge Corns of this invitation and of our hopeful anticipation of his acceptance.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Parsons requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 56. CONFERRING UPON JAMES JOHNSTON HICKS OF BIRMINGHAM THE DESIGNATION OF "DISTINGUISHED PROFESSOR EMERITUS OF HIGHER EDUCATION" IN ALABAMA.

WHEREAS, James Johnston Hicks, M.D., was associated with the University Hospital in Birmingham from 1946 as a resident and then as Chief, Otorhinolaryngology, until retirement, and also was Professor and Director with the University of Alabama in Birmingham (UAB) School of Medicine, Department of Surgery, Division of Otorhinolaryngology, from 1962-1985; and

WHEREAS, Dr. Hicks, in his capacity with the UAB School of

Medicine, was responsible for teaching Otorhinolaryngology residents, as well as 3rd and 4th year medical students and, as a member of the medical and educational communities, his longtime service and activities have been broad in scope and equally as significant in both professional areas; and

WHEREAS, Dr. Hicks, who has been a member of the American Association of University Professors since 1962, also has provided leadership as a member of the Medical Advisory Board of Medical Education Film Producers; through his key role in the establishment of the Reynolds Medical Library at UAB; and through his successful endeavors in raising some \$900,000 to supplement a \$400,000 state appropriation for the James Johnston Hicks, M.D., Chair at University Hospital; and

WHEREAS, Dr. Hicks has further served on the NINCDS Liaison Committee, Association of Academic Departments of Otolaryngology; donated the original Treatise on Parkinson's Disease to the UAB Reynolds Library; and has conducted ongoing research in crawfish for food and jobs in conjunction with Auburn University where he was awarded an Honorary Doctorate; and

WHEREAS, a graduate of Emory University and Tulane University Medical School, Dr. Hicks served an internship at Southern Pacific Hospital in San Francisco and, since completing his residency at UAB, has contributed immeasurably to the medical and teaching professions; and

WHEREAS, he is associated with numerous professional associations and societies, as well as community and civic organizations, and he has been honored on countless occasions in recognition of distinguished achievement, for his philanthropic endeavors, and for his support of the Talladega School for the Deaf, the Lurleen B. Wallace Cancer Center, and the Diabetes and Children's Hospitals, among other institutions; and

WHEREAS, James Johnston Hicks of Birmingham is indeed one of Alabama's most prominent and dedicated citizens whose achievements are worthy of widespread public recognition, and it is most particularly fitting and desirable that his service to education in the State of Alabama be acknowledged in an appropriate manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby confer upon Dr. James Johnston Hicks of Birmingham, the designation of

"Distinguished Professor Emeritus of Higher Education" in Alabama, and do further direct that he receive a copy of this resolution, in token of our deep and sincere gratitude, and as a memento of this honorary designation by the Alabama Legislature.

On motion of Senator Parsons, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Cosby, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 142. COMMENDING STAN MCGEE OF SELMA, ALABAMA, FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Owens, the Rules were suspended and the Resolution, HJR 142, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Rep. White:

HJR 141. COMMENDING MARGARET P. BYRD OF ATMORE, ALABAMA, WORTHY GRAND MATRON, ORDER OF THE EASTERN STAR, FOR THE STATE OF ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Foshee, the Rules were suspended and the Resolution, HJR 141, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Walker, McKee, and Buskey (JL):

HJR 127. COMMENDING WILLIAM C. CHANDLER, MONTGOMERY'S 1991 CITIZEN OF THE YEAR.

Also:

By Rep. Kvalheim:

HJR 129. COMMENDING FREDERICK W. BURKLE ON HIS DISTINGUISHED MILITARY CAREER.

Also:

By Rep. Smith (C):

HJR 130. COMMENDING CLAY CARROLL UPON HIS INDUCTION INTO THE ALABAMA SPORTS HALL OF FAME.

Also:

By Rep. McClain:

HJR 131. COMMENDING CHARLES H. CARTER OF BES-

SEMER, ALABAMA, FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolutions, HJR's 127, 130, and 131, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

On motion of Senator Lipscomb, the Rules were suspended and the Resolution, HJR 129, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Drake:

HJR 151. CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON THE FEASIBILITY STUDY ON ESTABLISHING TOLL ROADS FROM HUNTSVILLE TO GULF SHORES, ALABAMA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study the feasibility of building toll roads from Huntsville to Gulf Shores, Alabama. The committee shall be composed of five members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets of building toll roads from Huntsville to Gulf Shores, Alabama, including the economic impact on the state, various communities, towns, municipalities, and counties between the two points and the impact on tourism, and any pertinent areas the committee believes applicable.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the

committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the fifth legislative day of the 1993 Regular Session, and may report at any special session before, as it deems appropriate, whereupon, the committee shall stand dissolved and discharged of any further duties and liabilities. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed ten thousand dollars (\$10,000).

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 151, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

RECESS

At 6:40 P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 6:45 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Foshee:

S. 450. To further provide for the implementation of the pilot project for a uniform system for electronic voting and for the electronic transfer of election returns in the 1992 elections; to provide for

reimbursement by the state of certain expenses of the county from savings from election expenses and election printing expenses; and to provide for orderly participation of counties in the program.

Committee on Constitution
and Elections

By Senator Dial:

S. 451. Allowing certain retired judges of probate to qualify for maximum disability pension benefits under the Judicial Retirement Fund by using certain service as a circuit clerk and to provide for the cost of any increased benefits.

Committee on Finance
and Taxation

By Senators Dixon and Waggoner:

S. 452. To authorize payroll deductions for state employees for the Foster Care Trust Fund.

Committee on Finance
and Taxation

By Senator Floyd:

S. 453. Relating to juries and jury duty; to give prospective jurors over 70 years of age an election not to serve as a juror; and to give persons over 70 years of age the election to be permanently excused from jury duty.

Committee on Judiciary/Civil

By Senators Campbell, Smith (B), Amari, Waggoner, Preuit, Dial, Windom, Langford, Bennett, Bailey, deGraffenried, Foshee, Dixon, Bolling, Horn, Sanders, Bedsole, Ghee, Lipscomb, Denton, Barron, Floyd, Wilson, and Little:

S. 454. To provide for a means to safeguard the public against injury and loss of life or the interruption of public services caused by damage to various underground facilities by communicating and coordinating adequate prior notification of excavation or demolition activities that might damage or interrupt services provided by certain underground facilities; to prohibit certain activities without first having

ascertained the location of any potentially affected underground facilities; to prescribe procedures for notification of an intent to undertake certain activities; to prescribe certain activities to be included in an underground damage prevention program; to prescribe procedures for response to both emergency and routine notification and for reporting damage resulting from certain activities; to prescribe civil penalties for violations and exceptions to such penalties; to provide for the liberal construction and severability of any part of this act and to provide that this act shall become effective on January 1, 1993.

Committee on Economic Affairs

By Senator Horn (With Notice and Proof):

S. 455. To amend Section 11-52-3 of the Code of Alabama 1975, to provide further for the compensation for meetings attended by the appointed members of the planning commission of Class 1 municipalities, who are neither elected officials nor employees of the municipality; and to provide an effective date of the act.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 455, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Wilson:

S. 456. To establish minimum insurance and ad valorem tax requirements for the appropriation of state funds to local boards of education for capital outlay for schools destroyed by fire or other natural disaster.

Committee on Finance
and Taxation

By Senators Dixon and Waggoner:

S. 457. To provide a voluntary checkoff designation on state income tax returns for contributions to the Foster Care Trust Fund.

Committee on Finance
and Taxation

By Senator Ghee:

S. 458. To amend Section 32-5A-191, Code of Alabama 1975, relating to the offense of driving under the influence of alcohol and drugs to increase the penalty for a fourth and subsequent conviction.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Ghee:

S. 459. To amend Section 26-17-7 of the Code of Alabama 1975, to provide that certain actions commenced in the name of the state regarding paternity matters shall be brought by the Department of Human Resources.

Committee on Public Welfare

By Senators Smith (B) and Dial:

S. 460. To amend section 31-5-3 of the Code of Alabama 1975, which established the State Board of Veterans' Affairs, so as to add to the board a representative of the Military Order of the Purple Heart.

Committee on Governmental
Affairs/State Administration

By Senators Ghee and Figures:

S. 461. To codify the law regarding devolution of an estate at death and provide restrictions; to provide further for the duties and powers of a personal representative of an estate; to provide further for payment of expenses in estate litigation and employment of agents and employees of the estate; to provide for bonding requirements of a personal representative or special administrator; to repeal Sections 43-2-80, 43-2-81, 43-2-273, 43-2-310, 43-2-315, and 43-2-316, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

Committee on Judiciary/Civil

By Senator Barron:

S. 462. Amending Sections 20-2-20 and 20-2-21 of the Code of Alabama 1975; providing that the substances in Schedules II, III, and

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IV will be the same as those enumerated in federal Schedules II, III, and IV, and repealing certain conflicting laws.

Committee on Health

By Senator Floyd:

S. 463. To allow an increase in the composition of the water-works and sewer board and board of education of any Class 4 municipality which has adopted a mayor-council form of government pursuant to Chapter 43B, Title 11, Code of Alabama 1975; and to amend Sections 11-50-313, Code of Alabama 1975, relating to the board of directors of county and municipal water, sewer, gas, and electric systems and 16-11-2, Code of Alabama 1975, relating to the city board of education.

Committee on Governmental
Affairs/Local Government

By Senator Campbell:

S. 464. Proposing an amendment to the Constitution of 1901, consolidating under one county public authority or corporation any public authorities or corporations created by Lawrence County for economic development in Lawrence County pursuant to Amendment No. 190 of the Constitution of 1901, and all powers and authority granted to Lawrence County by Amendment No. 190; to provide that the county public authority or corporation shall assume any outstanding obligations created pursuant to Amendment No. 190.

Committee on Local
Legislation No. 1

The above Bill was read a first time at length as required by the Constitution.

By Senator Bedsole:

S. 465. To provide a special lifetime hunting, fishing, and combination license for residents who are 64 years of age.

Committee on Agriculture,
Conservation, and Forestry

By Senators Bedsole, Foshee, and Dixon:

S. 466. To amend Section 36-21-40 of the Code of Alabama 1975, relating to certain definitions applicable to the peace officers'

standards and training commission, so as to provide further for the definition of "law enforcement officer."

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Smith (B):

S. 467. To provide that certain security interest holders of mobile homes shall be required to remove said mobile homes from leased premises within a certain time of taking possession of the mobile home or be subject to rent for said leased premises at a commercially reasonable rate, and to provide that the provision of this act shall not constitute a waiver of the landlord's lien and any other right or cause of action.

Committee on Judiciary/Civil

By Senator Figures:

S. 468. To amend Section 12-17-40, Code of Alabama 1975, relating to supernumerary circuit judges, so as to provide further for the individuals who may qualify as supernumerary circuit judges.

Committee on Judiciary/Civil

By Senator Horn:

S. 469. To authorize each district attorney to establish a restitution recovery division within the Office of the District Attorney; to provide for notice, judicial hearings, and determinations; to provide for revocation of probation or parole, the imposition of sentence, or collection in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; and to provide for certain criminal penalties and exceptions.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Dial:

S. 470. To authorize the creation and incorporation of the Public Gas Authority of Alabama as a public corporation of the State of Alabama; to authorize the authority to acquire, construct, improve,

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equip, alter, repair, operate, and maintain projects and systems embracing the acquisition, production, storage, treatment, liquefaction, vaporization, transmission, purchase, sale, exchange or interchange of gas and to acquire, construct, and equip all property and things necessary or convenient for the purposes of such projects and systems and the acquisition, construction, maintenance, and operation of projects and systems; to authorize the authority and certain municipal and public corporations which own gas distribution systems to execute contracts for the use of the authority's projects and systems and the services thereof and for the purchase of gas therefrom for resale through the gas distribution systems owned by the municipal and public corporations in this state and to enforce the performance thereof; to authorize the authority to issue its bonds, bond anticipation notes, and notes payable from the revenues and assets of the authority in order to provide funds sufficient to carry out any of its corporate purposes and powers; to specify the extent of review and regulation by the Alabama Public Service Commission concerning the authority; to exempt the authority from the operation of the Alabama Sunset Law of 1976 and from the competitive bid laws; to provide an effective date; and to provide for the repeal of conflicting laws.

**Committee on Industrial
Development and Expansion**

By Senator Wilson:

S. 471. To amend Sections 8-22-8, 8-22-13, and 8-22-16, Code of Alabama 1975, the Motor Fuel Marketing Act to further provide for prices to meet the price of competitors, affidavits to support meeting the prices of a competitor under certain circumstances, and to provide criminal penalties.

Committee on Small Business

By Senator Smith (B):

S. 472. To provide for a construction industry craft training education program in vocational schools, technical schools, trade schools, and colleges; to establish the Alabama Construction Industry Training Board; and to impose a construction permit surcharge to fund a construction industry craft training program.

**Committee on Business
and Labor Relations**

By Senator Denton:

S. 473. To amend Section 14-8-6 of the Code of Alabama 1975,

to allow the Department of Corrections to withhold up to 40 percent of an inmate's earnings to cover costs incident to the inmate's confinement.

Committee on Judiciary/Civil

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 377. To amend Section 34-8-1, Code of Alabama 1975, providing for the definition of a general contractor, to provide further for the definition.

By Senators Corbett, Amari, and Campbell:

S. 378. To amend Act No. 90-650, S. 62, 1990 Regular Session, which establishes the Economic Development Revolving Loan Funds, so as to provide further for the compensation of the members of the committee and to provide that appropriations made pursuant to the act shall not revert into the general fund at the end of the fiscal year.

By Senator Corbett:

S. 436. To amend Section 32-5-240 of the Code of Alabama 1975, relating to the display of lighting equipment on vehicles, to require all motor vehicles except for passenger cars, motorcycles, and motor-driven cycles to display lighted lamps at all times with certain exceptions.

By Senator Foshee:

S. 441. To provide for and establish investigators for the Office of the Attorney General; providing for the hiring, salaries, expenses, authority, and duties of such investigators.

By Senator Foshee:

S. 442. To further provide for preference given to Alabama persons, firms, or corporations in the awarding of public contracts subject to the State Competitive bid law and to amend Section 41-16-27,

Code of Alabama 1975.

By Senator Lindsey:

S. 446. To ratify, confirm, and validate ab initio all water, sewer, gas, or electric systems acquired by boards organized under Article 9, Chapter 50, Title 11 of the Code of Alabama 1975, as amended; and to give retroactive effect.

By Senator Corbett:

S. 447. To establish the Alabama Small Business Incubator Act of 1992 to promote and establish small business incubators and entrepreneurial service under the Alabama Department of Economic and Community Affairs.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 309. To amend Section 5-2A-22 of the Code of Alabama 1975, relating to bank audit requirements, to provide further for the manner and the frequency of the audit for each state bank.

By Senators Wilson, Parsons, Lindsey, Corbett, Bailey, Windom, Langford, Bennett, Campbell, Ghee, Foshee, Floyd, Figures, Horn, Bedsole, Amari, Sanders, and Hilliard:

S. 328. To establish the Alabama Employers Workers' Compensation Insurance Authority to provide a plan for workers' compensation insurance in Alabama; and to authorize the implementation of the Alabama Employers Workers' Compensation Trust.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Parsons (With Amendment):

S. 318. Relating to the operation of motor vehicles; requiring,

as a condition of registration and licensing a motor vehicle, and applying for a driver's license, proof of a motor vehicle liability insurance policy, in force, from an approved insurance company, or certain other financial responsibility; setting the minimum limits and policy coverage; providing penalties for violations and providing for an assigned risk plan for persons classified as high risks, and the effective date.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Smith (B), Dixon, Barron, and Ellis (With Amendment):

S. 245. To provide that appeals from death sentence cases and from post conviction writs involving such cases shall be directly to the Alabama Supreme Court; to amend Sections 12-3-9 and 13A-5-53, Code of Alabama 1975; and to provide that the Alabama Supreme Court shall amend the Alabama Rules of Appellate Procedure to accommodate and reflect the provisions of this act.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Waggoner, Dial, Hale, and Foshee:

S. 264. To amend Sections 13A-11-30 and 13A-11-31, Code of Alabama 1975, relating to criminal eavesdropping; so as to further define the term eavesdrop and to alter the offense of criminal eavesdropping.

By Senators Mitchem and Barron:

S. 364. To provide that any person 14 years of age or older shall be tried as an adult if such person is charged with certain specified felonies; to further provide that in such case where the defendant was under the age of 18 years at the time of the crime, a hearing shall be conducted in the circuit court before a judge who regularly tries adult felony cases in order to determine whether the case shall be transferred to juvenile court; and to specify the time, applicable criteria, and burden of proof and persuasion and other matters relating to such hearing.

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Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Mitchem and Barron (With Amendment):

S. 366. To define the crime of stalking and the crime of aggravated stalking; to define terms; and to prescribe the relationship between this act and other provisions of law when the same conduct is prescribed by them.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Smith (J):

S. 388. To amend Sections 15-25-1 and 15-25-3 of the Code of Alabama 1975, relating to criminal procedure in examining certain child victims and witnesses in criminal prosecutions involving sexual offenses perpetrated against and sexual exploitation of children under 16 years of age, to permit leading questions of child victims and witnesses under age 10, at the discretion of the court; and allowing a child victim of physical abuse to be a competent witness to testify without prior qualification.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator Bedsole (With Amendments):

S. 389. To amend Sections 12-15-1, 12-15-65, and 12-15-71, Code of Alabama 1975, relating to the Alabama Juvenile Justice Act to provide further for the multiple needs child; to create a state children's services facilitation team and a county children's services facilitation team in each county; to create the Multiple Needs Child Fund; and to appropriate sums from the General Fund and the Special Educational Trust Fund.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Bedsole and Windom:

S. 431. To amend Section 13A-6-4, Code of Alabama 1975, to provide that criminally negligent homicide is a Class C felony in all cases in which the death is caused by a deadly weapon or dangerous instrument.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Bailey:

S. 321. To revise and supplement the existing statewide system for registering certain vital records and statistical data; to provide further for an Office of Vital Statistics, a State Registrar of Vital Statistics, and local registration districts and local registrars; to provide for additional registration procedures and requirements regarding certain types of births, deaths, final dispositions, adoptions, marriages, and divorces; to provide procedures for amending vital records, disclosing information from vital records, and reproducing, searching, and copying vital records; to provide for the collection of fees for certain services; to provide for enforcement and penalties for violations; to provide for existing forms and application to existing records; and to repeal Sections 22-9-1 to 22-9-79, inclusive, Code of Alabama 1975.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Owens:

S. 398. To amend Sections 11-51-90 and 11-51-93, Code of Alabama 1975, relating to municipal business licenses, so as to increase the fees and to increase the penalty for engaging in a business or

vocation without a license.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, and they were severally read a second time and placed on the calendar, to-wit:

By Reps. Grayson, Butler, Haney, and Freeman (With Substitute):

H. 62. Permitting members of a board of education of a Class 3 municipality to be elected from districts, and at times, as determined by the governing body of the municipality.

By Reps. Grayson, Butler, Haney, and Freeman (With Substitute):

H. 63. To revise the procedural requirements for increasing the number of city council districts in a Class 3 municipality.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Horn:

S. 419. To amend Section 41-16-50, Code of Alabama 1975, concerning the award of contracts for the purchase of personal property by municipalities to allow acceptance of the bid of a resident responsible bidder whose bid is no more than five percent greater than the bid of the lowest responsible bidder.

By Senator Lindsey:

S. 396. Relating to sheriffs departments of this state; to clarify the status of the position of chief deputy sheriff and to provide that each county may have a chief deputy sheriff.

By Senator Denton:

S. 352. To amend Section 16-51-6, Code of Alabama 1975, relating to the Board of Trustees of the University of North Alabama; to establish and implement personnel rules, policies, and practices for the university and authorizing the board of trustees to merge with another

institution without seeking or obtaining legislative or administrative approval.

By Senator Langford:

S. 371. To amend Section 36-7-1 of the Code of Alabama 1975, to provide that certain requirements relating to the reimbursement of travel expenses of municipal officers and employees will not apply to the use of municipal credit cards by these officers and employees.

By Senator Denton:

S. 409. To regulate further municipal elections, candidates for municipal office, campaign contributions, and campaign committees for municipal office candidates; to create the Municipal Fair Campaign Practices Act; to remove the municipal elections, candidates for municipal office, campaign contributions, and campaign committees for municipal candidates from the statewide Fair Campaign Practices Act; to repeal Sections 17-22A-1 to 17-22A-23, inclusive, of the Code of Alabama 1975, regulating state and local office candidates and officials and campaigns or political committees by repealing those sections only to the extent of regulating municipal elections, municipal candidates, and municipal officials, and the campaign committees of municipal candidates; to require certain timely reports and filings with the municipal clerk or other designee and the judge of probate; to prohibit certain soliciting and accepting contributions to influence elections; to impose misdemeanor penalties for violations of the act, and specified fines for the failure to make timely filings or reports; to provide for registration of campaign committees receiving above specified sums; to provide for duties of the campaign treasurer in administering, receiving, expending, and reporting contributions; to provide for acceptable and unacceptable campaign advertising and require identification of responsible person; and to provide for unlawful acts and prescribing penalties.

By Senator Smith (J):

S. 448. To prohibit the sale of alcoholic beverages in any annexed territory of a "dry" county by a "wet" city without an option election.

By Senator Bedsole:

S. 351. To amend Section 11-50-342 of the Code of Alabama 1975, relating to the membership of the board of water and sewer

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commissioners so as to provide further for an increase in said membership.

Senator Wilson, Chairperson of the Standing Committee on Energy and Natural Resources, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Lindsey and Bedsole:

S. 375. Relating to oil and gas; empowering the State Oil and Gas Board to authorize and regulate the storage of gas in underground reservoirs, strata, or formations, in conjunction with the condemnation rights conferred by chapter 5, Title 10 of the Code of Alabama 1975, and the eminent domain procedures prescribed in chapter 1A, Title 18, Code of Alabama 1975, and exempting storage operators from certain privilege taxes.

By Senator Owens:

S. 399. To provide for a special open season for hunting six-point or larger bucks; to provide for a fee and the disposition of the net revenues.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Bedsole:

S. 390. Relating to honeybees and bee colonies; to provide for the regulation of bee colonies and the regulation of certain pests of honeybees; to provide further for registration fees to be set by the Board of Agriculture and Industries; to authorize the Commissioner of Agriculture and Industries to prohibit the introduction of honeybees into this state upon a determination that honeybee pests present a serious threat to the honeybee industry; for this purpose amending Sections 2-14-1, 2-14-2, 2-14-3, 2-14-4, 2-14-5, 2-14-6, 2-14-9, 2-14-10, 2-14-11, 2-14-12, 2-14-13, and 2-14-14, Code of Alabama 1975.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the

following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 289. To amend Sections 16-8-10 and 16-11-18, Code of Alabama 1975, relating to written policies of county and city boards of education to require the written policies be made available to all persons affected and employed by the board.

By Senator Sanders:

S. 359. To increase the number of trustees on the Board of Trustees of Selma University and provide for their appointment.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Owens (With Substitute):

S. 397. Relating to the Alabama Board of Cosmetology; to provide further for the regulation, teaching, licensing, and practice by cosmetologists, manicurists, and estheticians; to provide further for the powers of the board, for the compensation of its members, and that its rule making powers and the review of its rulings be governed by the Administrative Procedure Act; and to provide for misdemeanor offenses and other fines and penalties; by amending Sections 34-7-1, 34-7-2, 34-7-4, 34-7-5, 34-7-7, 34-7-11, 34-7-12, 34-7-16, 34-7-21, 34-7-24, 34-7-25, 34-7-40, 34-7-41, 34-7-42, 34-7-45, and 34-7-47 of the Code of Alabama 1975.

Senator Bolling, Chairperson of the Standing Committee on Consumer Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bedsole:

S. 331. To amend Section 2-27-10, Code of Alabama 1975, which provides for the licensing of restricted-use pesticide sellers and

dealers, so as to raise the annual license.

By Senator Bedsole:

S. 332. To amend Section 2-27-53, Code of Alabama 1975, which provides for the licensing and examination of persons engaged in the custom application of pesticides, so as to increase the licensing fees.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Ellis (With Notice and Proof):

S. 8. Relating to the City of Helena in Shelby County; to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

By Senator Floyd (With Notice and Proof):

S. 182. Relating to Etowah County, authorizing the county commission to levy an annual license or privilege fee upon certain businesses, vocations, occupations, callings, or professions; authorizing the county commission to promulgate necessary rules and regulations; providing for the allocation of fee receipts; and providing a prospective effective date.

By Senator Floyd (With Notice and Proof):

S. 183. Relating to Etowah County; authorizing the Etowah county commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; to provide for the collection and enforcement of the tax and distribution of the proceeds therefrom; and to provide for civil penalties for violations.

By Senator Floyd (With Notice and Proof):

S. 184. Relating to Etowah County; authorizing the county commission to levy a privilege or rental license tax on every person engaged in the renting of real estate; providing certain exceptions and

exemptions; providing for the computation, collection, and enforcement of the tax; providing penalties for failure to pay the tax; authorizing the county commission to promulgate necessary rules and regulations; providing that the tax information shall be confidential; and providing for the allocation of the tax receipts.

By Senator Floyd (With Notice and Proof):

S. 185. Pertaining to Etowah County; to provide for an Etowah County Work Release Center; and to provide for the alternate confinement, at the court's discretion, of certain alternative punishments for eligible offenders to said center for the purpose of working at gainful employment or for rehabilitative purposes; to provide for a suspended work release program; to provide that any person so released who fails to report for confinement as ordered shall be subject to the same punishment as provided for escape; to provide for the payment to the county by such persons of a portion of their net earnings and for utilization of the funds derived therefrom; to provide for the Etowah County Work Release Fund; to create the Etowah County Work Release Commission; to provide for the membership of said commission and for its powers and duties; to provide for immunity from civil liability, except in certain cases for county governmental units, and the Work Release Commission.

By Senator Floyd:

S. 186. Proposing a constitutional amendment relating to Etowah County, to provide that in every case in which the circuit courts, district courts or municipal courts of Etowah County should impose a fine for any offense or violation of a criminal law, a traffic law or an ordinance of a political subdivision of Etowah County, there shall be imposed an additional fine, and to provide for the distribution of the revenues derived from said additional fine.

The above Bill was read a second time at length as required by the Constitution.

By Senator Floyd:

S. 187. Relating to Etowah County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Etowah County Commission to levy additional costs and fees on certain civil and criminal cases in the county and to provide for the distribution of the funds collected.

The above Bill was read a second time at length as required by the Constitution.

By Senator Floyd (With Notice and Proof):

S. 192. Relating to Etowah County; to provide for disposition of funds collected pursuant to Section 12-17-224, Code of Alabama 1975, so as to allow the same to be deposited into the District Attorney's Fund.

By Senator Hale (With Notice and Proof):

S. 314. Relating to Cullman County; to amend Sections 1 and 12 of Act No. 83-778, S. 559, 1983 Regular Session, to increase a county lodging tax and provide further for the use of the proceeds of the tax.

By Senator Lindsey (With Notice and Proof):

S. 387. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Fulton in Clarke County.

By Senators Smith (J) and Denton (With Notice and Proof):

S. 408. Relating to Lauderdale County; exempting senior citizen centers and community centers which primarily sponsor senior citizens' activities from all county and municipal sales and use taxes.

By Senator Denton (With Notice and Proof):

S. 427. Relating to Colbert County, establishing a sheriff reserve within the county sheriff's department.

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Barron:

S. 376. To amend Section 32-6-1, Code of Alabama 1975, to delete the requirement that the Department of Public Safety shall mail renewal notices to each licensee at least 30 days prior to the expiration date of a driver's license; to provide for notification after 30 days if driver's license has not been renewed and to provide for a 60-day grace period.

By Senator Campbell:

S. 386. To provide further for the inventory of certain state property and to amend Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975.

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Lindsey:

S. 88. To amend Section 32-5-75 of the Code of Alabama 1975, to provide further for securing of shifting loads on motor vehicles.

By Senator Lindsey:

S. 119. Proposing an amendment to Sections 232, 233, 234, and 237 of the Constitution of Alabama of 1901, as amended, relating to corporations to authorize the Legislature to define the activities that do or do not constitute the doing of business in Alabama by foreign corporations, to permit domestic corporations to engage in certain business not expressly authorized by its charter, to remove certain restrictions on the issuance of stock and bonds by domestic corporations, and to permit domestic corporations to issue preferred stock as authorized by general law.

By Senator Denton:

S. 303. Providing for the permitting and regulation of persons, firms, associations and corporations engaged in the alarm systems business in this state under the regulatory authority of the state fire marshal; authorizing the state fire marshal to prescribe fees for certain permits and identification cards related to such business; prescribing penalties for enforcement and providing procedures for the administration of this act.

By Senator Bennett:

S. 294. To amend Sections 22-30A-1 to 22-30A-5 and 22-30A-7 to 22-30A-10, inclusive, Code of Alabama 1975, relating to the Alabama Hazardous Substance Cleanup Fund to provide that the fund be used to investigate potential hazardous substance sites and to manage

and remove materials and to provide that the liability of liable parties under this act is joint and several.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 49. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance with certain modifications; to amend Sections 27-4-2, 27-7-7, 27-7-11, 27-7-18, 27-7-19, 27-7-23, 27-8-7, 27-8-15 and 27-8-16, Code of Alabama 1975.

Also:

S. 50. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Appraisers Board with certain modifications; to amend Sections 34-27A-13, 34-27A-15, and 34-27A-20, Code of Alabama 1975.

Also:

S. 51. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Freeman:

H. 240. To modify the tax imposed on the net income of individuals, trusts, estates, by repealing Code of Alabama (1975) Sections 40-18-1 through 40-18-39, 40-18-41 through 40-18-49, 40-18-51, 40-18-52, 40-18-54, 40-18-55, 40-18-57 through 40-18-76, 40-18-78, 40-18-81 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to income tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of an income tax based on federal taxable income with modifications; to provide transitional rules and elections to reflect differences between prior Alabama and federal law; to provide for the treatment of certain corporations electing to be taxed as S corporations; to provide for the collection of the tax by payment with returns, by withholding from salaries and wages, and by estimated tax payments; to provide certain transitional rules and elections; to provide for the severability of any invalid provision; and to provide for the bill to become effective only if an amendment to the Constitution of Alabama of 1901, proposed in H.B. 252 of the 1992 Regular Session, is adopted by the people and proclaimed by the Governor.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 240 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Rich:

H. 281. To hereby repeal the statutory earmarking of certain

state revenue sources.

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 281 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Cosby and Powell:

H. 238. To propose an amendment to the Constitution of Alabama, 1901, as amended, so as to limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; to provide a procedure for appropriation of balances; to provide a procedure for supplemental appropriations during special sessions; to provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; to provide a procedure for appropriations of revenue-raising measures; to provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; to provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; to provide an automatic emergency budgetary special session if the Legislature fails to meet its deadlines; and to provide time frames for the return of appropriation bills by the Governor. To provide that this Constitutional Amendment is self-executing and also to provide for a special constitutional election for this proposed amendment to the Constitution.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 238 - to the Committee on Finance and Taxation

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Campbell:

H. 244. To create the Intangible Property Tax Act of 1992; to provide for the levy and disposition of a tax on intangible property with certain exceptions; and to repeal sections 40-24-1 through 40-24-8, inclusive, Code of Alabama 1975.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 244 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Rogers (J), Newton (D), Perdue, Petelos, Spratt, Barnes, McClain, Rogers (F), and Escott-Russell (With Notice and Proof):

H. 147. Relating to the City of Birmingham in Jefferson

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County, creating the Birmingham Stadium and Exposition District, defining its boundaries, objects, purposes, powers, duties and authority; providing for the construction, financing, maintenance, and operation of the facilities of the district; and providing for the administration and government of the district.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 147, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 147 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Letson (With Notice and Proof):

H. 459. Abolishing School District No. 2 in Lawrence County, Alabama, and transferring the assets, liabilities, books, and records of School District No. 2 to School District No. 1 in that county.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 459, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Letson (With Notice and Proof):

H. 460. Relating to Lawrence County; providing for the levy and collection of fees for recording certain documents filed for record in the office of the judge of probate, providing for the distribution and use of the fees, and providing for retroactive effect.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 460, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Letson (With Notice and Proof):

H. 461. Relating to Lawrence County; to authorize the Sheriff to offer abandoned and stolen property for sale at public auction to the highest cash bidder.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 461, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Hall, Butler, Freeman, Sanderford, and Haney (With Notice and Proof):

H. 488. Relating to Madison County; prohibiting alcoholic beverage traffic in any private or public lounge, tavern, bar, club, night-club or restaurant in certain unincorporated areas of the county that features or otherwise permits topless females on its premises.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 488, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 459, 460, 461, and 488 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Fuller:

H. 243. To amend Sections 40-7-25.1, 40-7-25.2, 40-7-25.3, 40-8-1, 40-9-1, and 40-11-1, Code of Alabama 1975, relating to current use valuation, the assessment of property, the rate of state ad valorem tax, exemptions from ad valorem taxation, and the subjects of taxation, and to repeal Sections 40-8-4, 40-8-5, 40-9-1.1, to 40-9-28, inclusive, Code of Alabama 1975.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 243 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Cosby and Powell:

H. 232. To propose an amendment to the Constitution of

Alabama, 1901, as amended, so as to limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; to provide a procedure for appropriation of balances; to provide a procedure for supplemental appropriations during special sessions; to provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; and to provide a procedure for appropriations of revenue-raising measures. To provide that this Constitutional Amendment is self-executing and also to provide for a special constitutional election for this proposed amendment to the Constitution.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 232 - to the Committee on Finance and Taxation

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Layson:

H. 359. To propose an amendment to the Constitution of Alabama of 1901 relative to the compensation of the Judge of Probate of Pickens County.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing

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Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 359 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Black (L) (With Notice and Proof):

H. 501. Relating to Sumter County; to create a motor vehicle license and title division within the tax collector's office for the issuance of motor vehicle licenses and titles; to prescribe more convenient and efficient procedures for assessing and collecting certain taxes; to transfer certain duties now performed by the probate judge and tax assessor to said tax collector; and to provide for an expense allowance for the tax collector for the administering of this act.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 501, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 501 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Fuller:

H. 246. To authorize the abatement of local ad valorem taxes (other than those imposed for public school purposes and for capital improvements for public education), construction related transactions taxes, and mortgage and recording taxes incurred in establishing or expanding industries in Alabama; provides a procedure for granting the abatement of local ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes; limits the tax exemptions available through various public agencies and authorities and local governments; to require additional reporting of county tax assessing officials so that the annual abstract of property identifies and lists property by class and by public school system within the county; to provide transition rules; to preserve rights and obligations accrued under repealed laws; to provide for the severability of any invalid provision; to provide effective dates; to amend Section 40-7-35 and to repeal Sections 40-9-40 through 40-9-49, Code of Alabama 1975.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 246 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Parker (T):

H. 251. To modify the tax imposed on the net income of corporations by repealing Code of Alabama (1975), Sections 40-16-1 through 40-16-8, 40-18-1 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to said tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of a single rate income tax based on

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federal taxable income; to provide transitional rules and elections to reflect differences between Alabama and federal law; to provide for the collection of the tax by payment with returns, and by estimated tax payments; to provide for the severability of any invalid provision; to repeal conflicting laws; and to provide for effective dates and contingencies.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 251 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Venable:

H. 228. To amend Sections 16-47-30, 16-48-5, 16-49-20, 16-50-20, 16-51-3, 16-52-3, 16-53-3, 16-54-2, 16-55-2, 16-55-5, and 16-56-3, and to repeal Section 16-55-5 of the Code of Alabama 1975, relating to boards of trustees of certain public colleges and universities in the State of Alabama to provide for classes in trusteeship for members of boards of trustees.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 228 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Starkey, Butler, Fuller, Bugg, Knight, Sanderson, Hawkins, Freeman, Curry, McClain, Gaines, Campbell, Rogers (F), Parker (T), Morton, Hooper, Perdue, Box, Payne, Parker (P), Harper, Burke, Escott-Russell, Spratt, Thomas, Clay, Cullins, Black (M), Biddle, Haney, Buskey (JL), Zoghby, Petelos, McDowell, Carter, Walker, Clark (J), Ford, and Rogers (J):

H. 239. Proposing an Amendment to the Constitution of Alabama of 1901, to authorize and require the levy of a minimum local ad valorem tax for school purposes in each school district in the state and to provide the procedure to further increase local ad valorem taxes in school districts.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 239 - to the Committee on Finance and Taxation

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner:

H. 242. To propose an amendment to the Constitution of Ala-

bama of 1901, authorizing, under certain conditions, the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed fifty one-hundredths of one percentum on the value of the taxable property within the state and providing for the distribution of the proceeds to be derived from said special tax for certain specified purposes.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 242 - to the Committee on Finance and Taxation

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 252. To amend the Constitution of Alabama of 1901, by proposing amendments to Sections 217 (as amended by Amendment 373), 229 (as amended by Amendment 27), 232 (as amended by Amendment 473), of the Constitution of Alabama of 1901 and Amendment 25 of the Constitution and to repeal Sections 91 and 261 and to repeal Amendments 61, 112, 225 and 448 of the Constitution of 1901 so as to provide for the assessment of all property in three classifications; to provide for homestead and other exemptions; to permit but not require the Legislature to impose corporate franchise taxes; to authorize the imposition of an income tax; to repeal the requirement for personal exemptions in the income tax; to modify the earmarking of the income tax; to repeal the requirement that the federal income tax be deductible in computing net income. In addition, this bill would authorize the levy by the Legislature of an additional state ad valorem property tax at a rate

not to exceed twenty-five one hundredths of one percent on the value of the taxable property within the state and provide for the distribution of the proceeds to be derived from said special tax for certain specified purposes. This bill would also limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; provide a procedure for appropriation of balances; provide a procedure for supplemental appropriations during special sessions; provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; provide a procedure for appropriations of revenue-raising measures; provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; provide an automatic emergency budgetary special session if the Legislature fails to meet its deadlines; provide time frames for the return of appropriation bills by the Governor; to provide that the provisions of this proposed amendment to the Constitution shall be linked to the enactment and ratification of certain bills introduced in the 1992 Regular Legislative Session and also to provide election procedures for this proposed amendment to the Constitution.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 252 - to the Committee on Finance and Taxation

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Parker (T):

H. 249. To provide for the Franchise Tax Reform Act of 1992;

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to amend Sections 40-14-40, 40-14-41, 40-14-49, 40-14-52, 40-14-53, 40-14-56, and 10-2A-260 and 10-2A-261 of the Code of Alabama 1975; to repeal Sections 40-14-1 through 40-14-3, inclusive, 40-14-20 to 40-14-23, inclusive, 40-14-41.1, 40-14-42 to 40-14-48, inclusive, 40-14-50, 40-14-51, 40-14-54, 40-14-55, and 40-14-70 to 40-14-74, inclusive, Code of Alabama 1975.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 249 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner:

H. 248. To levy an additional two and one-half mill ad valorem tax and an additional five mill ad valorem tax and provide for the distribution of the respective proceeds therefrom, to provide that the aforesaid levies shall be contingent upon the approval by the qualified electors of the state of, in the case of the two and one-half mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 252 at the 1992 Regular Session of the Legislature, and in the case of the five mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 242 at the 1992 Regular Session of the Legislature.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Mes-

sage from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 248 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 245. To provide for the Alabama Transaction Tax Act of 1992; to amend Sections 11-51-180 to 11-51-182, inclusive, 11-100-3, 11-100-4, 11-100-7, 16-15-11, 16-16-11, 40-12-4, 40-12-6, 40-12-7, 40-21-85, 40-21-106, 40-21-122, and 40-29-73, Code of Alabama 1975; to repeal Sections 11-51-200 to 11-51-207, inclusive, 34-27-65, 40-12-220 to 40-12-227, inclusive, 40-23-1 through 40-23-121, inclusive, and 40-26-1 through 40-26-21, inclusive, Code of Alabama 1975.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 245 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. McClain and Curry (With Notice and Proof):

H. 478. Relating to Jefferson County; amending Section 2 and 3 of Act No. 130, H. 37, First Special Session 1964 (Acts 1964, p. 184)

which provides for municipal tax assessments for unincorporated property annexed to municipalities in counties having a population of not less than 500,000 according to the last or any subsequent federal census and in newly incorporated areas, so as to allow municipal tax assessments on motor vehicles and to require the city clerk to immediately notify the probate judge or director of revenue or other like officer of the area annexed or incorporated.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 478, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Biddle (With Notice and Proof):

H. 86. Relating to Jefferson County; levying an additional 3% lodging tax to be used by the Greater Birmingham Convention and Visitors Bureau, the Birmingham-Jefferson Civic Center Authority, the City of Bessemer Civic Center, and any Commission or Authority created by the Legislature to promote and solicit sports and athletic events in Jefferson County, for the promotion of Birmingham and Jefferson County as a convention, sports event and visitors' destination; providing that the Director of Revenue shall collect such tax.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 86, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Hooper, McKee, Walker, Holmes, Buskey (JL), and Mikell
(With Notice and Proof):

H. 507. Relating to Montgomery County to allow persons to be duly appointed to and to serve on any Montgomery County board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Montgomery County.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 507, AS REQUIRED IN THE

GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.*GREG PAPPAS,*
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB's 478 and 86 - to the Committee on Local Legislation No. 2

HB 507 - to the Committee on Local Legislation No. 1

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills and Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SJR 41	SJR 44	SJR 47
SJR 42	SJR 45	SJR 46
SJR 43		

Delivered to the Governor, March 12, 1992, at 10:20 A.M.

SB 36	SB 40	SB 46
SB 37	SB 42	SB 47
SB 38	SB 44	SB 48
SB 39		

Delivered to the Governor, March 12, 1992, at 3:36 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 7 o'clock P.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted, the Senate adjourned until Tuesday, March 17, 1992, at 2 o'clock P.M.

SIXTEENTH LEGISLATIVE DAY

TUESDAY, MARCH 17, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Dr. Preston Bailey, Pastor, Capitol Heights Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Keith Charles, Houston Hills Junior High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fifteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation ombudsman program, benefit review conferences; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 49. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance.

Also:

S. 50. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Appraisers Board

with certain modifications; to amend Sections 34-27A-13, 34-27A-15, and 34-27A-20, Code of Alabama 1975.

Also:

S. 51. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service.

Also:

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Hale:

S. 474. To amend Sections 12-19-71, 12-19-72, 12-19-171, 12-19-172, 12-19-174, 12-19-175, 12-19-176, 12-19-178, and 12-19-179, Code of Alabama 1975, to increase the fees and costs in circuit and district courts; to further provide for the distribution of fees and costs in circuit and district courts so as to enhance that portion of the fees and costs that is distributed to the state general fund; to make supplemental appropriations for the fiscal year ending September 30, 1992; to make appropriations for the fiscal year ending September 30, 1993; to repeal all laws or parts of laws in conflict herewith; and to provide for the effective date of this act.

Select Committee on
Fiscal Responsibility

By Senator deGraffenried:

S. 475. To amend Section 1 of Act No. 92-63, S. 73, 1992 Regular Session, relating to congressional redistricting; so as to: delete from District 2: Montgomery County: Tract 60.85: Block Group 1, Block 135; Block Group 5: Block 501B; add to District 2: Montgomery County: Tract 0001: Block Group 2: Block 209, 219, 220; delete from District 7: Montgomery County: Tract 0001: Block Group 2: Block 209, 219, and 220; and add to District 7: Montgomery County: Tract 60.85: Block Group 1, Block 135; Block Group 5: Block 501B.

Committee on Constitution
and Elections

By Senator Lindsey:

S. 476. To amend Section 2-15-122 of the Code of Alabama 1975, which sets up notice, review, and hearing requirements by the commissioner so as to allow the commissioner to hold a meeting of the board at any place; to amend Section 2-15-124 of the Code of Alabama 1975, which specifies deposit requirements so that the monies spent are appropriated; to amend Section 2-15-125 of the Code of Alabama 1975, which provides for lapse of charter so as to also cause a charter to lapse when its livestock market license is revoked; to amend Section 2-15-127 of the Code of Alabama 1975, which sets up appeal procedures to require that appeals be taken to circuit court and to provide that appeals must be perfected within 30 days and also to set up guidelines to be followed by the court in hearing the appeal.

Committee on Agriculture,
Conservation, and Forestry

By Senator Lindsey:

S. 477. To repeal Section 2-15-40 of the Code of Alabama 1975, which defines dealer; to repeal Section 2-15-41 which requires a dealer permit for vehicles hauling livestock; to repeal Section 2-15-42 which provides for forfeiture of the permit for violation of rules and regulations; to repeal Section 2-15-43 which requires dealers to obtain bills of sale and to issue way-bills; to repeal Section 2-15-45 which authorizes the adoption of rules and regulations; to repeal Section 2-15-46 which provides punishment for violations of these sections; to repeal Section 2-15-47 which exempts the buying or hauling of livestock when the person buying or hauling said livestock is using said livestock for the purpose of grazing, feeding, or milking; to repeal Section

2-15-48 which allows the permit required under these sections to be in addition to any other license required by the state, county, or city; and to provide an effective date.

Committee on Agriculture,
Conservation, and Forestry

By Senator deGraffenried:

S. 478. Requiring the Alabama Commission on Higher Education to establish a statewide steering committee to improve participation in two-year and four-year postsecondary education and prescribing the duties of the committee; requiring the commission to enter into a contract to establish a center to provide communications regarding postsecondary education; and permitting the commission to seek supplemental funding.

Committee on Public Welfare

By Senator Mitchem:

S. 479. To amend Sections 22-5-2, 22-5-4, 22-5-5, and 22-5-6 of the Code of Alabama 1975, relating to the Commission on Physical Fitness; to further provide for the name, powers, meetings, and responsibilities of the Commission on Physical Fitness; to include the support, sponsorship, and co-sponsorship of sports events by the Commission; to include, except for the next executive director and successors, the present employees of the commission under the merit system; to provide for a management coordinator for the commission; and to provide for the effective date.

Committee on Business
and Labor Relations

By Senator Bedsole (With Notice and Proof):

S. 480. Relating to Mobile County, to provide for the levy, collection, and distribution of an additional tax on tobacco and tobacco products.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 480, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Corbett:

S. 481. Relating to the regulation of liquefied petroleum gas; to amend Section 9-17-109 of the Code of Alabama 1975, as amended, to provide for the filling of liquefied gas tanks and bottles; and to require notification of work on liquefied petroleum gas systems.

Committee on Economic Affairs

By Senator Sanders:

S. 482. To amend Sections 16-46-3, 16-46-5, and 16-46-6, Code of Alabama 1975, relating to regulation of certain schools and courses of instruction, so as to remove the exemption of certain schools currently exempt from licensure requirements, establish program areas to be reviewed prior to the issuance of a license, increase the amount of surety bonds, and fees; and establish a tuition guaranty fund.

Committee on Education

By Senator Bedsole:

S. 483. Creating the Alabama Medicaid Governing Board and the position of Commissioner of Medicaid and prescribing their powers and duties; designating the Medicaid Agency as the single state agency for the purposes of federal law and providing that the current Medicaid Agency shall be under the control and supervision of this board; prescribing the method of adopting, amending, and rescinding certain regulations; and prescribing a potential retroactive effective date.

Committee on Confirmations

By Senator Little (With Notice and Proof):

S. 484. Providing further for the salary of the sheriff of Lee County, Alabama.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 484, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Wilson:

S. 485. To amend Sections 8-6-10 and 8-6-16 of the Code of Alabama 1975, to require the filing of a notice of issuance for certain exempt securities; to provide further for exemption of certain exchange listed securities; to provide administrative cease and desist authority to the commission; and to provide for court ordered rescission, restitution, or disgorgement for violations of the Alabama Securities Act.

Committee on Business
and Labor Relations

By Senator Smith (J):

S. 486. Relating to motor vehicles; to prohibit inducing the buyer of a motor vehicle pursuant to a retail installment contract or the lessee of a motor vehicle pursuant to a lease contract from subleasing the motor vehicle without certain consent; to prohibit the offering for hire of motor vehicles subleased in violation of this act; to provide civil remedies and damages; and to provide penalties.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Little:

S. 487. Relating to Class 6 municipalities; to provide for certain circumstances where a motor vehicle shall be considered an abandoned motor vehicle on private property; and to provide for the use of a wheel lock device.

Committee on Governmental
Affairs/Local Government

By Senators Lindsey and Corbett:

S. 488. To amend Section 11-85-56, Code of Alabama 1975, to expand the powers and duties of regional planning and development commissions.

Committee on Economic Affairs

By Senator Figures (With Notice and Proof):

S. 489. Amending the title and Section 1 of Act No. 323, H.

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719, 1976 Regular Session, providing further for supplemental retirement compensation paid by Mobile County to retired circuit judges in the 13th Judicial Circuit.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 489, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Hilliard:

S. 490. To establish the Alabama Public Transit Development Act of 1992; to authorize the State Highway Department to establish a Public Transit Trust Fund; to provide for allocations to and distributions from said fund; and to provide for the development of a Five-Year Public Transit Development Plan by the highway department.

Committee on Commerce,
Transportation, and Utilities

By Senator Hilliard:

S. 491. To provide for a certain discretionary increase in sentence for persons convicted of feloniously selling controlled substances to persons under a certain age.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Hilliard:

S. 492. To authorize any public university, college or institution of higher learning in this state to have a building or buildings for housing or other services provided for its students.

Committee on Finance
and Taxation

By Senator Lipscomb (With Notice and Proof):

S. 493. Relating to Mobile County; to alter and rearrange the

boundaries of the municipalities of Mobile and Saraland, so as to take certain land out of Mobile and place it in Saraland.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 493, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Barron:

S. 494. To amend Sections 40-1-31, 40-21-80 to 40-21-84, inclusive, 40-21-86, 40-21-100 to 40-21-104, inclusive, and 40-21-121, Code of Alabama 1975; to repeal Sections 40-21-58 and 40-21-59, Code of Alabama 1975.

Committee on Finance
and Taxation

By Senator Hilliard (With Notice and Proof):

S. 495. To amend Section 11-43-86 of the Code of Alabama 1975, to increase the monthly expense allowance of the mayor of any Class 1 city; and to provide that the expense allowance shall be eligible for certain treatment, both as to the determination of retirement benefits and allowances and to the withholding of required withholding and payments into any pension or retirement system trust fund provided for any retirement benefit system in which the mayor may be entitled to participate.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 495, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Hilliard:

S. 496. Relating to insurance, to amend Section 27-30-16, Code of Alabama 1975, which is the reserve valuation law for policies of a

mutual aid association providing benefits payable in cash so as to require such valuation to be pursuant to the standard valuation law as contained in Section 27-36-7, Code of Alabama 1975.

Committee on Banking
and Insurance

By Senator Hilliard:

S. 497. Relating to the operation of certain tour buses in this state; to provide for the payment of the registration fee payable to Public Service Commission and the identification marker or trip permit fee payable to the Department of Revenue by a single payment submitted to the Department of Tourism and Travel; and to exempt tour buses from the motor carrier mileage tax; for this purpose amending Sections 37-3-32, 40-17-50, 40-19-1, and 40-19-2 of the Code of Alabama 1975.

Committee on Commerce,
Transportation, and Utilities

By Senator Hilliard:

S. 498. To further amend Section 37-3-4, Code of Alabama 1975, as amended, relating to certain exemptions from the Alabama Motor Carriers Act for certain motor carriers and others to allow certain motor carriers who transport passengers of certain nonprofit groups, organizations, societies, corporations, public institutions, or other organizations with tax exempt status by the federal government pursuant to 26 U.S.C.A. 501(c), to charge lesser rates or tariffs; to require certain filings with the Public Service Commission in the manner prescribed by the commission; and to provide for an effective date.

Committee on Commerce,
Transportation, and Utilities

By Senator Hilliard (With Notice and Proof):

S. 499. To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust

fund in which the members may participate.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 499, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Hilliard:

S. 500. To amend Section 37-3-4, Code of Alabama 1975, so as to include certain motor carriers who transport certain property in open-top dump vehicles to the exemptions contained therein.

Committee on Commerce,
Transportation, and Utilities

By Senator Ghee:

S. 501. To provide for the Alabama Recreational Trails System within the Department of Conservation and Natural Resources for the development of recreational trails; to provide for the Alabama Rails to Trails Program within the trail system; to provide for an advisory council; and to provide for certain restrictions and penalties on canoe trails.

Committee on Agriculture,
Conservation, and Forestry

RESOLUTIONS

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 57. MOURNING THE DEATH OF AARON ARONOV OF MONTGOMERY, ALABAMA.

WHEREAS, it is with a profound sense of loss that the Legislature

of Alabama records the death of Aaron Aronov of Montgomery, Alabama, on December 12, 1992, at the age of 71 years; and

WHEREAS, a native of Montgomery and a graduate of that city's Sidney Lanier High School, Mr. Aronov attended the University of Alabama's School of Commerce and Business until forced to leave because of illness in his sophomore year; and

WHEREAS, upon returning to Montgomery, he worked with his father in the family's auto and tire business until entering real estate sales after World War II; in 1952 he founded Aronov Realty Company and, shortly thereafter, Aronov Insurance Company; and

WHEREAS, from real estate sales, Aaron Aronov quickly moved into residential development and, in 1954, undertook his first major retail project which was Normandale Shopping Center, one of the first planned regional shopping centers in the Southeast, and the first of many Aronov-developed centers to be located throughout Alabama and in some 15 other states; and

WHEREAS, Aaron Aronov was indeed a man of vision and great drive, but always toward realistic goals upon which to build, and therein lies the key to his phenomenal success; and

WHEREAS, Mr. Aronov's accomplishments and contributions were not confined, however, to the business world, but were extended to encompass countless philanthropic endeavors, through which he shared generously of his time and efforts, and through more tangible means, in support of worthy programs, projects and causes to the good and well-being of the people of Alabama; and

WHEREAS, most particularly close to his heart, were his activities involving his alma mater, which included dedicated service on the governing board for seven years beginning in 1983, during which tenure and as chairman of the investment committee, as a member of the finance committee, and as a member and former chairman of the audit committee, he played a key role in the growth of the University of Alabama System; and

WHEREAS, he also was a major contributor to the University's scholarship fund, and was instrumental in raising more than \$1 million to fund an academic chair of Judaic Studies, which was named in his honor, and is now a monument to his memory; and

WHEREAS, Aaron Aronov, during his lifetime, was the recipient

of untold distinctions and accolades, but none more significant than the admiration, regard and affection in which he was held by all those whom he lived to serve; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life of Aaron Aronov of Montgomery, Alabama, and extend our very deepest sympathy to his beloved wife of 46 years, Marjorie Schoenbaum Aronov; their two sons, Jake and Owen Aronov; daughter, Teri Aronov Diamond; and to other family members, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Sanders requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 58. NAMING ALL OF HIGHWAY 14 IN DALLAS, PERRY, HALE, GREENE, AND PICKENS COUNTIES, ALABAMA, THE "DR. MARTIN LUTHER KING, JR., HIGHWAY."

WHEREAS, the citizens of the State of Alabama recognize the accomplishments and example set by Dr. Martin Luther King, Jr., in his work to insure equal justice and opportunity for all Alabamians and Americans; and

WHEREAS, in memory of Dr. Martin Luther King, Jr., and the movement he represented in the history of our country, it is appropriate that there be a lasting and perpetual memorial established in his honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we name and designate all of Highway 14 in Dallas, Perry, Hale, Greene, and Pickens Counties, Alabama as the "Dr. Martin Luther King, Jr., Highway."

BE IT FURTHER RESOLVED, That the proper officials shall erect and maintain appropriate signs and markers designating the highway as the "Dr. Martin Luther King, Jr., Highway," and that the Alabama State Highway Department be advised, by copy of this resolution, of this memorial designation by the Legislature of Alabama.

On motion of Senator Sanders, the Rules were suspended and the

Resolution was adopted by the Senate.

Senators Foshee, Campbell, Corbett, and Denton requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 59. URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION IMPOSING TARIFFS AND SURCHARGES ON PRODUCTS, GOODS, AND EQUIPMENT MANUFACTURED IN COUNTRIES CHARGING TARIFFS ON GOODS, PRODUCTS, AND EQUIPMENT EXPORTED FROM THE UNITED STATES.

WHEREAS, the economic well-being of our state and nation is both directly and adversely affected by the purchase and use of foreign-made products and goods; and

WHEREAS, the Alabama Legislature, on behalf of the citizens of Alabama, expresses utter shock and disbelief over the fact that products, goods, and equipment exported from the United States are subject to tariffs; and

WHEREAS, products, goods, and equipment imported to the United States are not subject to tariffs or surcharges; and

WHEREAS, in light of the drastic and continued decline of our economy, directly related to tariffs on exports from the United States by countries that we do not charge tariffs on exports to the United States, it is most imperative that the United States Congress define their loyalties through positive and corrective action; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That to further our own economic interests and protect the well-being of all our citizens, we urge the United States Congress to enact legislation imposing tariffs and surcharges on products, goods, and equipment imported from countries charging tariffs on products, goods, and equipment exported from the United States.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Speaker of the United States House of Representatives, President of the United States Senate, and each member of the United States Senate and House of Representatives from Alabama.

On motion of Senator Foshee, the Rules were suspended and the Resolution was adopted by the Senate.

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 60. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the sixteenth legislative day of the 1992 Regular Session only:

	Page
S. 296	42
Mandatory Drug Treatment Prog., supp. approp. from Alcohol and Drug Abuse Court Referral Office Trust Fund	
S. 203	64
Corrections Dept. and Pardons and Paroles Bd. directed to perform cert. investigations in domestic violence and related cases	
S. 260	64
Children's Trust Fund, investment of trust fund money further reg., Sec. 26-16-30 am'd.	
S. 284	65
Youth Services Bd., membership incr., comp., Secs. 44-1-51, 44-1-53 am'd.	
S. 31	65
Alabama National Guard, ed. benefit for membs.	
S. 285	66
State employees, wrongful dismissal, cause of action estab. to remedy, penalties	
S. 305	66
Agriculture and Industries Dept., boll weevil eradication, supp. approp.	
S. 307	67
Law enforcement officers, subsistence allow. to incl. corrections employees, Sec. 36-21-2 am'd.	
S. 308	68
State parks, cert. concession contracts exempt from cert.	

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regs., Sec. 9-14-29 am'd.

S. 6 68
Employees' Retirement System, credit for judicial service
auth.

S. 57 69
Sports Hall of Fame Bd., membs. incr., appt. by lt. gov.
and speaker of the house, Sec. 41-9-450 am'd.

S. 14 69
Youth Services Dept., may appoint or employ cert. police
officers, powers, duties

S. 27 70
Jacksonville State University, campus police allowed to take
persons who commit crimes to mun. ct. as well as dist. ct.,
Sec. 16-52-12 am'd.

S. 28 70
Child abuse, further defined, sexual torture defined and
penalty, Sec. 26-15-3 am'd.

S. 89 71
Law enforcement officers, ambulance attendants, wastewater
operators, training costs reimbursed where one governmental
entity hires employees of another, Sec. 36-21-7 am'd.

S. 107 71
Rural Electric Cooperative Act am'd, service to
nonmembers, operation of coop., Secs. 37-6-3, 37-6-8, 37-
6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30, am'd.,
Sec. 37-6-17 repealed.

S. 247 72
Insurance premium finance companies, reg., max. service
charge, contract, Secs. 27-40-1, 27-40-8, 27-40-9, 27-40-
12, 27-40-15, and 27-40-17 am'd.

S. 86 72
Uemployment comp., exclusion for employees of churches,
provided further, Sec. 25-4-10 am'd.

S. 251 73
Dental Examiners, bd. of, practice of dentistry and dental

hygiene further reg., parenteral sedation authorized and fees increased, Secs. 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64 am'd.

S. 252 73
Carrying firearms on school premises or during transportation to or from school related activities, Class C felony

S. 336 74
Handicapped, guidelines for access to voter registration and polling places, Secs. 21-4-22 am'd.

S. 340 74
Board of registrars, mileage allowance for official business, Sec. 17-4-153 am'd.

S. 272 75
Fireworks, bottle rockets prohib., Sec. 8-17-217 am'd.

S. 118 75
Handicapped parking, uniform system instituted for safety, license fees estab., Secs. 32-6-230 through 32-6-234, 40-12-300 am'd.

On motion of Senator Preuit, the Resolution was adopted by the Senate.

SPECIAL ORDER BILLS ON THIRD READING

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 296. To make a supplemental appropriation of \$675,000 from the Alcohol and Drug Abuse Court Referral Officer Trust Fund to the Mandatory Drug Treatment Program for the fiscal year ending September 30, 1992.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 296, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Floyd, B.I.R., SB 203, adopted.

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Yeas 26 Nays 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lipscomb, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom -26

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 203. To direct the Department of Corrections and the Board of Pardons and Paroles to perform certain investigations and procedures in domestic violence and related cases.

was taken up.

Senator Floyd offered the following amendment to the Bill, SB 203, to-wit:

AMENDMENT TO SB 203

Amend Senate Bill No. 203 on page 4, line 8, after the word "counsel":

to be provided by the Alabama Coalition Against Domestic Violence,

Which was adopted.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, and Windom -27

Nays:

- 0

And said Bill, SB 203, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 23 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom -23

Nay: Senator Corbett

- 1

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Thursday, March 19, 1992, which motion was adopted.

BUDGET ISOLATION RESOLUTION

Senator Bailey, B.I.R., SB 260, adopted.

Yeas 24 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, and Windom -24

Nays:

Senators:

Amari and Corbett

- 2

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 260. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried,

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Denton, Dial, Ellis, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -27

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Bedsole, B.I.R., SB 284, adopted.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Smith (B), and Waggoner -22

Nays:

Senators:

Amari and Corbett - 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 284. To amend Sections 44-1-51 and 44-1-53, Code of Alabama 1975, relating to the Youth Services Board to provide for the expansion of membership to the board, for compensation to the board, and the requirements for a quorum at board meetings.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (B), and Waggoner -23

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Dial, B.I.R., SB 31, adopted.

Yeas 20 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Dial, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Waggoner -20

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 31. Providing certain educational assistance benefits for certain active members of the Alabama national guard.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, Denton, Dial, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (B), Smith (J), and Waggoner -23

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., SB 296, adopted.

Yeas 22 Nays 3

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Denton, Dial, Ellis, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -22

Nays:

Senators:

Amari, Corbett, and Parsons

- 3

FURTHER CONSIDERATION OF SB 296

The Senate proceeded to further consideration of the Bill, SB 296.

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And said Bill, SB 296, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Denton, Dial, Ellis, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -23

Nay: Senator Corbett

- 1

BUDGET ISOLATION RESOLUTION

Senator Mitchell, B.I.R., SB 285, adopted.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Dial, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -22

Nays:

Senators:

Amari and Corbett

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 285. To provide for a civil cause of action against certain employers who take action detrimental to certain defined employees because the employee reports a violation of law or participates in a formal inquiry or court action.

was taken up.

The Standing Committee on Governmental Affairs/State Administration reported the following substitute for the Bill, SB 285, to-wit:

SUBSTITUTE FOR SB 285

**A BILL
TO BE ENTITLED
AN ACT**

To provide for a civil cause of action against certain individuals

who take action detrimental to certain defined employees as a result of the employee reporting a violation of law or participating in a formal inquiry or court action; to provide for damages and injunctive relief; and to provide a statute of limitations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as "the state employees' protection act."

Section 2. As used in this act:

(a) "Employee" means any employee as set out in Code of Alabama (1975), § 36-26-1 et seq.

(b) "Public body" means all of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.

(iii) A law enforcement agency, including the office of the Attorney General and those of the several District Attorneys, or any member or employee of a law enforcement agency.

(iv) The judiciary and any member or employee of the judiciary.

Section 3. (a) An individual shall not discharge, threaten, or otherwise discriminate against a state employee regarding the state employee's compensation, terms, conditions, location, or privileges of employment because:

(i) the state employee, or a person acting on his behalf, reports or is about to report, verbally or in writing, under oath or in the form of an affidavit, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to the laws of this state, a political subdivision of this state, or the United States, to a public body, unless the state employee knows the report is false, or

(ii) the state employee is requested by a public body to participate in an investigation, hearing, or inquiry held by a public body,

or to participate in a court action, or

(iii) the state employee participates in good faith in an investigation, hearing or inquiry held by a public body, or participates as a party or witness in a court action.

Section 4. (a) A state employee who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within two years after the occurrence of the alleged violation of this act.

(b) An action commenced pursuant to subsection (a) may be brought in the circuit court for the county where the alleged violation occurred, in Montgomery County, or in the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(c) As used in subsection (a), "damages" means damages for injury or loss caused by each violation of this act.

Section 5. A court, in rendering a judgment in an action brought pursuant to this act, shall order, where appropriate: reinstatement of the employee, payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies.

Section 6. The provisions of this act do not create a civil action against the state of Alabama where a civil action was not previously sustainable under Alabama law.

Section 7. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 22 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bolling, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons,

Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -22

Nay: Senator Corbett - 1

Senator Mitchell offered the following amendment to the Bill, SB 285, as amended by the substitute, to-wit:

AMENDMENT TO SB 285, AS AMENDED

Amend SB 285, as amended by the substitute, page 2, line 15, by deleting the words "or is about to report"

Amend SB 285, as amended by the substitute, page 3, line 14, by inserting the following: Section 7. Nothing contained in this act shall be construed to prevent or prohibit an individual from disciplining, discharging, transferring or otherwise affecting the terms and conditions of a public employee's employment for cause, not connected with the conduct protected by this act.

Amend SB 285, as amended by the substitute, page 3, line 14, by changing "Section 7." to Section 8.

Amend SB 285, as amended by the substitute, page 3, line 18, by changing "Section 8." to Section 9.

Further amend SB 285, as amended by the substitute, page 3, Section 6, line 12, by adding after the word "Alabama" the words "or its agencies".

Which was adopted.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Denton, Dial, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -23

Nay: Senator Corbett - 1

And said Bill, SB 285, as amended by the substitute, as amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

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Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -26

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Smith (J), B.I.R., SB 305, adopted.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (B), and Smith (J) -22

Nays:

Senators:

Amari and Parsons

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 305. To appropriate from the general fund of the state treasury the sum of \$1,000,000.00 for the fiscal year ending September 30, 1992, to the Department of Agriculture and Industries Agricultural Development Services Program, which sum shall be allocated to the Boll Weevil Eradication Foundation for use in boll weevil eradication; to provide that such appropriation shall be supplemental.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -27

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 307. To provide further for the subsistence allowance of law enforcement officers to include officers with the Department of Corrections and to amend Section 36-21-2, Code of Alabama 1975.

was taken up.

Senator Bedsole moved that the Rules be suspended and further consideration of the Bill, SB 307, be postponed temporarily.

Senator Smith (J) moved that said motion to postpone be laid on the table, which motion was lost.

The question recurred on the motion of Senator Bedsole, that the Rules be suspended and further consideration of the Bill, SB 307, be postponed temporarily, which motion was adopted.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 203. To direct the Department of Corrections and the Board of Pardons and Paroles to perform certain investigations and procedures in domestic violence and related cases.

JIM PREUITT,
Chairperson.

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., SB 308, adopted.

Yeas 21 Nays 2

Yeas:

Senators:

Bailey, Bennett, Bolling, Denton, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (B), Waggoner, and Windom

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Nays:

Senators:

Corbett and Parsons

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 308. To amend Section 9-14-29, Code of Alabama 1975, relating to the applicability of the provisions of Article 2 of Chapter 14 of Title 9 of the Code of Alabama 1975, so as to add an exemption for concession operations receiving gross receipts of \$100,000.00 or less annually.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Corbett, Denton, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Smith (B), Smith (J), and Waggoner

-21

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Little, B.I.R., SB 6, adopted.

Yeas 18 Nays 1

Yeas:

Senators:

Bailey, Bennett, Bolling, Denton, Ellis, Figures, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Smith (B), and Waggoner

-18

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 6. To provide that any member of the employees' retirement system of Alabama, who, not more than one year prior to be-

coming a member of the said system, was a member of the judicial retirement fund, may elect to transfer his creditable service and accumulated contributions from the judicial retirement fund to the employees' retirement system.

was taken up.

Senator Little offered the following substitute for the Bill, SB 6, to-wit:

SUBSTITUTE FOR SB 6

A BILL TO BE ENTITLED AN ACT

To provide that any member of the employees' or teachers' retirement system, who, not more than one year prior to becoming a member of the system, was a member of the judicial retirement fund, may elect to transfer his or her creditable service and accumulated contributions from the judicial retirement fund to the employees' or teachers' retirement system.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Any member of the employees' or teachers' retirement system, who, not more than one year prior to becoming a member of the employees' or teachers' retirement system, was a member of the judicial retirement fund, may elect to transfer to the employees' or teachers' retirement system, his or her creditable service and accumulated contribution in the judicial retirement fund, as provided in this act.

(b) Any member desiring to transfer the creditable service and contributions shall, after becoming a member of the employees' or teachers' retirement system, notify the board of control of the system, of his or her election to transfer the creditable service and, shall authorize transfer of the amount of his or her accumulated contributions to his or her credit in the judicial retirement fund to his or her account in the employees' or teachers' retirement system.

(c) The board of control transferring the creditable service and contributions shall thereupon certify to the boards of control of the employees' or teachers' retirement system and the judicial retirement fund, the amount of contributions and service creditable to the member

at the time of separation from the transferring retirement system. The member shall be credited in the employees' or teachers' retirement system with the creditable service and accumulated contributions so certified.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Smith (J), and Waggoner -19

Nays:

- 0

And said Bill, SB 6, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Corbett, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Smith (B), Smith (J), and Waggoner -21

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Waggoner, B.I.R., SB 57, adopted.

Yeas 19 Nays 2

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Ellis, Floyd, Foshee, Ghee, Hale,

Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders,
Smith (B), Waggoner, and Windom -19

Nays:

Senators:

Amari and Corbett

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 57. To amend Section 41-9-450 of the Code of Alabama 1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each an appointment to the Board.

was taken up.

Senator Waggoner offered the following substitute for the Bill, SB 57, to-wit:

SUBSTITUTE FOR SB 57

A BILL TO BE ENTITLED AN ACT

To amend Section 41-9-450 of the Code of Alabama 1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each appointments to the Board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-9-450 of the Code of Alabama 1975, is hereby amended to read as follows:

"§41-9-450.

"There shall be created and established as provided in this article a board to be designated and known as the Alabama sports hall of fame board. The board shall be composed of 14 members, ~~eight~~ nine of whom shall be appointed by the governor of Alabama, ~~for terms of six~~

~~years each; provided, that of~~ Of the nine appointed by the Governor, at least one shall be appointed from each congressional district and two shall be appointed from the state at-large. Of the first members appointed by the Governor, two shall serve for two years, and three shall serve for four years and four shall serve for six years as the governor may direct. ~~One board member shall be appointed for each congressional district in the state. The ninth~~ One member of the board shall be the chairman or president of the Jefferson county civic center board by virtue of his office. Two board members shall be appointed by the Lieutenant Governor from the state at-large, and two board members shall be appointed by the Speaker of the House from the state at-large, for terms of six years. ~~The tenth member shall be appointed by the governor of Alabama from the state at-large for a term of six years.~~

"The members of the board shall select a chairman and vice-chairman from among their own number. Members of the board shall not be compensated for their services, but each member shall be entitled to reimbursement for expenses incurred in attending board meetings. The board shall meet quarterly and at such other times as its rules and bylaws may prescribe. A majority of the members shall constitute a quorum for transaction of business."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Sanders, Smith (B), Waggoner, and Windom -20

Nays:

- 0

And said Bill, SB 57, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 20 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, Denton, Dixon, Floyd,

Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Owens, Parsons,
Sanders, Smith (B), Waggoner, and Windom -20

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Langford, B.I.R., SB 14, adopted.

Yeas 17 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bolling, Dixon, Ellis, Figures, Foshee, Ghee, Hale,
Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Sanders, and
Windom -17

Nays:

Senators:

Amari and Parsons

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 14. To permit the State Youth Services Director to appoint or employ persons to serve as police officers for the Department of Youth Services and specify the powers and duties of the officers.

was taken up.

Senator Parsons offered the following amendment to the Bill, SB 14, to-wit:

AMENDMENT TO SB 14

On page 2, line 28, after the language "summon a" insert the following language:

sine arma

On motion of Senator Langford, said amendment was laid on the table.

And said Bill, SB 14, was read a third time at length and passed, and ordered sent forthwith to the House.

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Yeas 19 Nays 1

Yeas:

Senators:

Bailey, Campbell, Corbett, Denton, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Windom -19

Nay: Senator Amari

- 1

BUDGET ISOLATION RESOLUTION

Senator Ghee, B.I.R., SB 27, adopted.

Yeas 21 Nays 1

Abstaining 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Owens, Preuitt, Sanders, Smith (J), and Windom -21

Nay: Senator Amari

- 1

Abstaining: Senator Parsons

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 27. To amend Section 16-52-12 of the Code of Alabama 1975, as amended, relating to the powers of law enforcement officers on the campus of Jacksonville State University and criminal procedure for certain offenses committed on the grounds and in buildings of the university, so as to allow process through the nearest municipal as well as district court.

was taken up.

Senator Parsons offered the following amendment to the Bill, SB 27, to-wit:

AMENDMENT TO SB 27

On page 2, line 13, after the language "summon a" insert the following language:

sine arma

On motion of Senator Ghee, said amendment was laid on the table.

And said Bill, SB 27, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), and Windom -25

Nay: Senator Amari

- 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

GREG PAPPAS,
Clerk.

BUDGET ISOLATION RESOLUTION

Senator Ghee, B.I.R., SB 28, adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dixon,

Ellis, Figures, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (J), and Windom -22

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 28. Relating generally to crimes involving child abuse; to amend section 26-15-3, Code of Alabama 1975, relating to acts of abuse by a responsible person upon a child under the age of 18 years, so as to define further such acts and to prescribe a felony penalty and a misdemeanor penalty for such defined prohibited acts; and to provide for the new offense of sexual torture, to define the offense, and to provide a felony punishment for such offense.

was taken up.

The Standing Committee on Judiciary/Civil reported the following substitute for the Bill, SB 28, to-wit:

SUBSTITUTE FOR SB 28

**A BILL
TO BE ENTITLED
AN ACT**

To provide for the crime of sexual torture; and to provide penalties for the offense.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) A person commits the crime of sexual torture if he or she subjects another person to sexual abuse by penetration of the vagina, anus, or mouth of the other person with an inanimate object by forcible compulsion with intent to torture or abuse.

(b) Sexual torture is a Class A felony punishable as provided in the Alabama Criminal Code.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. The provisions of this act shall not repeal any law not

in direct conflict with its provisions.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Ellis, Floyd, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), and Windom -22

Nays:

- 0

And said Bill, SB 28, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Ellis, Floyd, Ghee, Hale, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), and Windom -19

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 127. COMMENDING WILLIAM C. CHANDLER, MONTGOMERY'S 1991 CITIZEN OF THE YEAR.

Also:

HJR 129. COMMENDING FREDERICK W. BURKLE ON HIS DISTINGUISHED MILITARY CAREER.

Also:

HJR 130. COMMENDING CLAY CARROLL UPON HIS IN-

DUCTION INTO THE ALABAMA SPORTS HALL OF FAME.

Also:

HJR 131. COMMENDING CHARLES H. CARTER OF BESSEMER, ALABAMA, FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

Also:

HJR 141. COMMENDING MARGARET P. BYRD OF ATMORE, ALABAMA, WORTHY GRAND MATRON, ORDER OF THE EASTERN STAR, FOR THE STATE OF ALABAMA.

Also:

HJR 142. COMMENDING STAN MCGEE OF SELMA, ALABAMA, FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

Also:

HJR 151. CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON THE FEASIBILITY STUDY ON ESTABLISHING TOLL ROADS FROM HUNTSVILLE TO GULF SHORES, ALABAMA.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

BUDGET ISOLATION RESOLUTION

Senator Bolling, B.I.R., SB 89, adopted.

Yeas 20 Nays 1

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Denton, Ellis, Floyd, Foshee,

Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons,
Preuitt, Sanders, Smith (J), and Windom -20

Nay: Senator Corbett - 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 89. Relating to the reimbursement of mandated training costs when one governmental entity hires certain employees from another governmental entity within a certain period, and to amend Section 36-21-7 of the Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Denton, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lipscomb,
Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), and
Windom -23

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., SB 107, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Ellis, Floyd,
Foshee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens,
Parsons, Preuitt, Sanders, Smith (J), and Windom -21

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10,

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37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

was taken up.

Senator Foshee offered the following amendment to the Bill, SB 107, to-wit:

AMENDMENT TO SB 107

Amend SB 107 on page 13, line 9, by adding thereto the following:

Notwithstanding any contrary provision of Section 37-6-21 of this chapter, in connection with any such guaranty, without authorization of its members, to secure its guaranty obligations by executing a guarantor's note and securing such note or its guaranty with a mortgage on all or any portion of its property, assets and the revenues and income therefrom. Such mortgage may be to the party for whose benefit the guaranty is given, to other guarantors of the debt guaranteed by the cooperative or to an agent, trustee or other representative of the holder of the guaranty or other guarantors.

Which was adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Ellis, Floyd, Foshee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), and Windom -21

Nays:

- 0

And said Bill, SB 107, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton,

Dixon, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Windom -24

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., SB 247, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Windom -24

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 247. To amend Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15 and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies so as to provide further for the regulation of such companies; to delete certain references to and authorization for designated agents; to provide for a maximum service charge; to require premium finance agreements to contain certain information; to substantially alter the procedure for return of gross unearned premiums upon cancellation of the insurance contract; to provide for time limits for the return of unearned premiums; and to provide where the amount of premium financed shall be sent.

was taken up.

The Standing Committee on Banking and Insurance reported the following amendment to the Bill, SB 247, to-wit:

AMENDMENT TO SB 247

Amend Senate Bill 247 on page 1, line 16, by deleting the language "27-40-9,".

Further amend Senate Bill 247 on page 1, line 21, by deleting the

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language "to provide for a maximum service charge;" .

Further amend Senate Bill 247 on page 1, line 29, by deleting the language "27-40-9," .

Further amend Senate Bill 247 beginning on page 3, line 23, through page 5, line 3, by deleting Section 27-40-9 in its entirety.

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Windom
-24

Nays:

- 0

And said Bill, SB 247, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Windom
-26

Nays:

- 0

RESOLUTION

Senators Foshee, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 61. CONGRATULATING OUR FRIENDS, CAROLYN

AARON, MICHELLE MYERS, CHERYL PERDUE, AND PAT LINDSEY

WHEREAS, it is with great pleasure that we join in celebrating the St. Patrick's Day birthdays shared by our Senate-family friends, Carolyn Aaron, Michelle Myers and Cheryl Perdue, and by Senator Pat Lindsey who, as usual, is found in the company of several lovely ladies; and

WHEREAS, although St. Patrick's Day is the traditional day for the "wearing of the green," it is a Blue Ribbon Day for this quartet of celebrants who truly deserve the limelight, yet have never had a parade; and

WHEREAS, nor, as far as we know, have they ever been green with envy over the attention paid to "Saint" Pat, not to be confused by any stretch of the imagination with "Senator" Pat, and they are to be commended for their forbearance in playing second fiddle to an Irish jig; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That on the occasion of their March 17th birthdays, we hereby most heartily congratulate our good friends, Carolyn, Michelle, Cheryl and Pat, for whom copies of this resolution of sincere best wishes shall be provided.

On motion of Senator Foshee, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Bailey, B.I.R., SB 86, adopted.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, and Windom -26

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 86. To amend Section 25-4-10, Code of Alabama 1975,

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which defines the term "employment" for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

was taken up.

The Standing Committee on Judiciary/Civil reported the following amendment to the Bill, SB 86, to-wit:

AMENDMENT TO SB 86

Amend Senate Bill 86, on Page 17, Line 19, as follows:

after "is" insert the word "either"

after the comma after the word "operated" insert "or"

On line 20 before the word "controlled" insert "or"

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Waggoner, and Windom -23

Nays:

- 0

And said Bill, SB 86, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Waggoner, and Windom -23

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Dixon, B.I.R., SB 251, adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuit, Sanders, Waggoner, and Windom -23

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

was taken up.

The Standing Committee on Health reported the following substitute for the Bill, SB 251, to-wit:

SUBSTITUTE FOR SB 251**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63,

and 34-9-64, Code of Alabama 1975, are amended to read as follows:

"§34-9-8.

"The board shall annually issue teaching permits to persons who hold are bona fide members of the faculty of a dental college, if they hold a dental degree where such persons are but are not licensed and registered to practice dentistry or dental hygiene in this the state. The dean of a any dental college located in this the state shall be required to annually certify to the board the bona fide members of the school's clinical faculty of the college who are not licensed and registered to practice dentistry or dental hygiene in the state. and shall be required to promptly notify the board of any change in personnel on the clinical faculty. The board shall be required to issue teaching permits to applicants upon the certification of by the dean, of a dental college located in this state setting forth that such applicant is a bona fide member of the clinical faculty of such college. Such teaching permit shall be issued annually to those members of the school's faculty who are annually certified as individuals who are not licensed and registered to practice dentistry or dental hygiene in this state. Such The teaching permit shall be invalid as soon as if the holder thereof ceases to be a member of the clinical faculty of such the dental college. The dean of any dental college shall promptly notify the board regarding changes in the faculty which affect the eligibility of a faculty member to possess a teaching permit. The holder of a teaching permit shall be subject to all provisions of this chapter regulating the practice of dentistry and dental hygiene in this state and shall be entitled to may perform all clinical operations which a person licensed to practice dentistry or dental hygiene in this the state would be is entitled to perform, but only The operations may only be performed within the facilities of the dental college and as an adjunct to his or her teaching functions in such the college. An annual fee of not less than \$5.00 five dollars (\$5) nor more than \$50.00 one hundred fifty dollars (\$150) shall be paid to the board on when the issuance of a teaching permit is issued.

§34-9-16.

"The board shall collect fees provided for in this chapter as follows:

"Examination fee for dental applicants, to be fixed by the board
.....\$25.00
to \$200.00

"Examination for dental applicants under reciprocal agreements
.....\$50.00
to \$100.00

"Examination and training permit fee for dental hygienists	\$20.00
	to \$180.00
"Education fee for student hygienists in Alabama dental hygiene program	\$75.00
	to \$200.00
"License certificate fee.....	\$20.00
"Duplicate license certificate fee	\$20.00
"Annual registration certificate fee.....	\$10.00
	to \$50.00
	<u>\$100</u>
"Duplicate annual registration certificate fee.....	\$1.00
"Teaching permit	\$5.00
	to \$50.00
	<u>\$150</u>
"§34-9-40.	

~~"In order to accomplish the purposes and to provide for the enforcement of this chapter, there~~ There is hereby created the board of dental examiners Board of Dental Examiners of Alabama. ~~The board is hereby vested with the authority which is authorized to carry out the purposes and enforce the provisions of this chapter. On June 24, 1959, the members of the present board of dental examiners~~ Board of Dental Examiners now in existence shall hold office for the remainder of their respective terms for which they have been elected and thereafter until their successors are elected and qualified and shall constitute the board of dental examiners Board of Dental Examiners of Alabama under this chapter. The board of dental examiners Board of Dental Examiners of Alabama shall consist of five dentists, who shall have been actively engaged in the private practice of dentistry in the state of Alabama for at least five years next preceding the date of their election. No member of the board shall be a member of the faculty of any dental school or dental college or receive any financial benefits for teaching in any dental school or dental college or have a financial interest in a commercial dental laboratory or a dental supply business. All elections shall be conducted by the board. Any group of 10 or more licensed dentists, residing and practicing dentistry in the state of Alabama, may nominate a candidate for the office of board of dental examiner by submitting a petition bearing their signatures to the secretary of the board not later than the first

~~day of July in the year of such election. As provided herein nominee(s)~~
~~for election to the Board of Dental Examiners must be submitted to the~~
~~secretary of the board not later than the first day of July in the year of~~
~~the election. Provided, however, that nominee(s) who do not meet all~~
~~qualifications herein and having been nominated as provided for in this~~
~~chapter shall not have their name(s) placed on the election ballot. Be-~~
~~ginning in 1992 and every fifth year thereafter only nominee(s) submit-~~
~~ted by the Alabama Dental Society shall be eligible for election as a~~
~~board member in that year. In all remaining years any group of 10 or~~
~~more licensed dentists, residing and practicing dentistry in the state of~~
~~Alabama, may nominate a candidate for the office of Board of Dental~~
~~Examiner by submitting a petition bearing their signatures to the secre-~~
~~tary of the board not later than the first day of July in the year of the~~
~~election. The nomination cycle established herein shall be repeated in~~
~~perpetuity. The board shall cause the election ballots to be mailed not~~
~~later than September 1 in the year of the election to all the licensed~~
~~dentists residing and practicing in the state of Alabama and currently~~
~~registered as prescribed by law, along with the annual registration form~~
~~for the forthcoming fiscal year. Both annual registration form and ballot~~
~~shall be returned to the secretary of the board on or before October 1~~
~~each year. A ballots ballot being shall be nullified unless it is~~
~~accompanied by a completed annual registration form and an annual~~
~~registration fee. Three members of the board shall be present at the~~
~~canvassing of the ballots. Any candidate receiving a majority of the votes~~
~~shall be declared elected to the board of dental examiners of Alabama~~
~~and will shall take the oath of office on or before October 15 in the year~~
~~of his the election. In the event no candidate receives a majority of the~~
~~votes cast, the board shall conduct a run-off election between the two~~
~~candidates receiving the largest number of votes. The board shall cause~~
~~the ballots pertaining to the run-off election to be mailed on or before~~
~~October 15 of the election year to all the licensed dentists residing and~~
~~practicing in the state of Alabama and currently registered as prescribed~~
~~by law, and the ballots pertaining to the run-off election shall be received~~
~~by the secretary of the board on or before the first day of November in~~
~~the year of such the run-off election. Each member so elected shall hold~~
~~office for a period of five years, which The term of office shall begin~~
~~immediately upon taking an oath to properly and faithfully discharge the~~
~~duties of his the office and until his a successor is elected and qualified,~~
~~and said member so elected shall not at the expiration of the said term be~~
~~eligible to succeed himself. Members shall not be eligible for election to~~
~~a consecutive term of office. Vacancies on the board shall be filled by~~
~~the board by the appointment of the immediate past member of the~~
~~board, and if If for any reason the immediate past member of the board~~
~~is unable to accept such the appointment, then the board shall fill the~~
~~vacancy by a unanimous vote of the other board members by the ap-~~

pointment of some other past member of the board. Members of the board shall be removed by a two-thirds vote of the registered dentists in the state for neglect of duty or any just cause, by petition to the secretary of the board signed by 10 percent or more of the licensed dentists in the state of Alabama. ~~On or before July 1, 1962, the board shall send a copy of this section to all licensed dentists in the state of Alabama."~~

"§34-9-43.

"The board shall exercise, subject to the provisions of this chapter, each of the following powers and duties:

"(1) Adopt To adopt such rules for its government as it may deem deemed necessary and proper;.

"(2) Prescribe To prescribe rules for qualification and licensing of dentists and dental hygienists;.

"(3) Conduct To conduct examinations to ascertain the qualification and fitness of applicants for licenses as dentists and dental hygienists;.

"(4) Make To make rules and regulations regarding sanitation;.

"(5) Formulate To formulate rules and regulations by which dental schools and colleges shall be are approved, and formulate rules and regulations by which training, educational, technical, vocational, or any other institution which provides instruction for dental assistants, dental laboratory technicians, or any other paradental shall be are approved;.

"(6) Grant To grant licenses, issue license certificates, teacher's teaching permits, and annual registration certificates in conformity with this chapter to such qualified dentists and dental hygienists;.

"(7) Conduct To conduct hearings or proceedings to impose the penalties outlined specified in section Section 34-9-18;.

"(8) a. Employ such To employ necessary persons as it may deem necessary to assist in carrying out performing its duties in the administration and enforcement of this chapter, and to provide offices, furniture, fixtures, supplies, printing, or secretarial service; to these persons and expend such necessary funds as may be deemed necessary therefor, and for these purposes.

"b. To employ an attorney or attorneys, subject to the approval of

~~the attorney general~~ Attorney General, to advise and assist in the ~~carrying out administration and enforcing enforcement of the provisions~~ of this chapter;.

"(9) a. ~~Investigate~~ To investigate known violations of the this chapter ~~that may come to the knowledge of the board, and institute or cause to be have~~ instituted before the board or in a the proper court ~~appropriate proceedings in connection therewith; regarding the violation.~~

~~"b. Authorize certain persons, who are investigators, to exercise the powers of peace officers in investigating violations of the drug or controlled substances laws in its profession or related occupations, including the powers of arrest and inspection of documents; provided, however, each such person shall first comply with the provisions of the Peace Officers' Minimum Standards and Training Act and shall not be eligible for or receive any subsistence allowances; To employ investigators who comply with the Peace Officers' Minimum Standards and Training Act to exercise the powers of a peace officer in investigating violations of the drug and controlled substances laws by persons licensed pursuant to this chapter. These investigators shall not be paid a subsistence allowance by the board.~~

"(10) ~~Adopt~~ To adopt rules and regulations to ~~carry out and make effective the provisions of~~ implement this chapter;.

"(11) ~~Publish~~ To publish annually the rules and regulations promulgated by the board, and a copy of the Dental Practice Act; and to publish at least every two years a list of all persons licensed to practice under this chapter; and.

"(12) ~~Attend such~~ To attend meetings, seminars, work shops, or events that may ~~in any way~~ improve the function and efficiency of the board or improve the board's ability of the board to enforce and ~~carry out the provisions of~~ administer this chapter.

"§34-9-63.

"The issuance of a permit for general anesthesia shall include the ~~privileges~~ privilege of administering intravenous parenteral sedation in accordance with the ~~provisions of~~ this section. The issuance of a permit for parenteral sedation shall include the privilege of administering intravenous sedation. All current intravenous sedation permit holders are entitled to a parenteral sedation permit subject to the renewal and regulatory provisions afforded to the Board of Dental Examiners by this chapter. The term parenteral sedation shall not include the use or regulation of nitrous oxide.

~~"(1) Twelve months after May 29, 1985, After August 1, 1993,~~ no dentist shall use intravenous parenteral sedation on an outpatient basis for dental patients unless such the dentist possesses a permit of authorization issued by the board of dental examiners as hereinafter provided. The dentist applying for or holding such the permit shall be subject to on-site inspections as set forth provided in paragraph b. of subdivision (2) of ~~section~~ Section 34-9-60.

"a. In order to receive such the permit, the dentist must shall meet each of the following requirements:

"1. apply Apply on a prescribed application form to the board.

"2. of dental examiners and submit Submit a fee to be determined by the board of dental examiners not to exceed \$750.00 seven hundred fifty dollars (\$750).

"3. and produce Produce evidence showing that he or she has done each of the following:

"(i) 1. Has received Received formal training in the use of intravenous parenteral sedation from a board approved training program, and is competent to handle all emergencies relating to intravenous parenteral sedation, and is currently certified in cardiopulmonary resuscitation. The certification of the formal training shall specify the total number of hours, as well as the number of didactic hours, and the number of patient contact hours. The required number of didactic hours and the number of patient contact hours shall be determined by the board. This training program must have been approved as acceptable for training in intravenous sedation by the board of dental examiners; and

"(ii) 2. Has a properly equipped Equipped a proper facility for the administration of intravenous parenteral sedation, staffed with a supervised team of auxiliary personnel, capable of reasonably assisting the dentist with procedures, problems, and emergencies incident thereto to the sedation procedure.

"b. Adequacy of the facility and the competency of the sedation team shall be determined by the board. of dental examiners.

"c. Prior to the issuance of such a permit, the board of dental examiners at its discretion, may require an on-site inspection of the facility, equipment, and personnel to determine if, in fact, the aforementioned requirements to this section have been met. This evaluation shall be carried out in the same manner performed as provided in subdivision (2) of this section.

"(2) Each dentist who is licensed to practice dentistry in the state on ~~May 29, 1985,~~ or after August 1, 1992, who desires to continue to use intravenous parenteral sedation shall make application on the prescribed form to the board of ~~dental examiners~~ within 12 months of ~~May 29, 1985~~ August 1, 1992. If he or she meets the requirements of this section, or currently holds a valid intravenous sedation permit, he or she shall be issued such a permit subject to all renewal and regulatory requirements of Section 34-9-64. If ~~said the~~ applicant does not meet the requirements of paragraph a. of subdivision (1) of this section, or does not currently hold a valid intravenous sedation permit, he or she may be entitled to a 'intravenous parenteral sedation permit' ~~provided said if~~ the applicant passes, to the satisfaction of the board, an on-site inspection. ~~Said~~ The inspection shall ascertain that the dentist has a properly equipped facility for the administration of intravenous parenteral sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with incidental procedures, problems, and emergencies ~~incident thereto~~.

"The board, in conducting the on-site inspection and evaluations required in this section, shall appoint a team of three examiners who shall be dentists certified to administer intravenous parenteral sedation in accordance with this article.

"(3) A dentist utilizing intravenous parenteral sedation and his auxiliary personnel of the dentist shall be currently certified in cardiopulmonary resuscitation.

"(4) Each dentist who has not been using intravenous parenteral sedation prior to ~~May 29, 1985,~~ August 1, 1992, may, pending complete processing of an application and a thorough on-site evaluation, be granted a temporary provisional permit by the board, ~~based on if the applicant's producing applicant produces~~ evidence that he or she has complied with this section. ~~pending complete processing of the application and thorough investigation by the on-site evaluation.~~

"§34-9-64.

"The board shall, ~~with fee to be determined by the board not to exceed \$750.00,~~ renew the intravenous parenteral sedation permit annually, unless the holder is informed in writing that a reevaluation of his or her credentials and facility is ~~to be required,~~ necessary. In determining whether ~~such the~~ reevaluation is necessary, the board shall consider ~~such any~~ factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. ~~Such The~~ reevaluation shall be ~~carried out in the manner described~~ performed as

provided in paragraph b. of subdivision (2) of ~~section~~ Section 34-9-60. The board shall set the fee to renew a parenteral sedation permit in an amount not to exceed seven hundred fifty dollars (\$750).

Section 2. The provisions of this act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Waggoner -25

Nays:

- 0

Senator Foshee offered the following amendment to the Bill, SB 251, as amended by the substitute, to-wit:

AMENDMENT TO SB 251, AS AMENDED

Amend SB 251, as amended by the substitute, as follows:

On page 5 delete lines 4 through 13 in their entirety and insert in lieu thereof the following language:

herein nominee(s) for election to the Board of Dental Examiners must be submitted to the secretary of the board not later than the first day of July in the year of the election. Provided, however, that nominee(s) who do not meet all qualifications herein and having been nominated as provided for in this chapter shall not have their name(s) placed on the election ballot. Beginning in 1992 and every fifth year thereafter any group of 10 or more licensed dentists, residing and practicing dentistry in the state may nominate a candidate for the office of the Board of Dental

Examiners, provided that the nominee is black. In all remaining years any group

Which was adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Waggoner -25

Nays: - 0

Senator Foshee then offered the following amendment No. 2, to the Bill, SB 251, as amended by the substitute, as amended, to-wit:

AMENDMENT NO. 2 TO SB 251, AS AMENDED

Amend SB 251, as amended by the substitute, as amended, as follows:

On page 5 line 10 delete the figures "1992" and insert in lieu thereof the figures "1993".

On motion of Senator Dixon, said amendment was laid on the table.

On motion of Senator Dixon, the Rules were suspended and further consideration of the Bill, SB 251, as amended by the substitute, as amended, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Dixon, B.I.R., SB 252, adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -25

Nay: Senator Corbett - 1

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 252. To provide for the offense of carrying firearms on school premises or while being transported to or from school or a school-related activity on transportation provided by the school; and to prescribe penalties.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -25

Nay: Senator Corbett

- 1

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after

the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 6. To provide that any member of the employees' or teachers' retirement system, who, not more than one year prior to becoming a member of the system, was a member of the judicial retirement fund, may elect to transfer his or her creditable service and accumulated contributions from the judicial retirement fund to the employees' or teachers' retirement system.

Also:

S. 57. To amend Section 41-9-450 of the Code of Alabama 1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each appointments to the Board.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 285. To provide for a civil cause of action against certain individuals who take action detrimental to certain defined employees as a result of the employee reporting a violation of law or participating in a formal inquiry or court action; to provide for damages and injunctive

relief; and to provide a statute of limitations.

JIM PREUITT,
Chairperson.

BUDGET ISOLATION RESOLUTION

Senator Ghee, B.I.R., SB 336, adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -25

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 336. To amend Section 21-4-22 of the Code of Alabama 1975, to require that certain guidelines to assure accessibility of registration and polling places for handicapped and elderly individuals apply at all elections.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -25

Nay: Senator Corbett

- 1

BUDGET ISOLATION RESOLUTION

Senator Ghee, B.I.R., SB 340, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, deGraffenried, Denton, Dixon, Ellis, Foshee,

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Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom
-24

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 340. To amend Section 17-4-153 of the Code of Alabama 1975, relating to the mileage allowance of members of boards of registrars.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 24 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, deGraffenried, Denton, Dixon, Ellis, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom
-24

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Denton, B.I.R., SB 272, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, deGraffenried, Denton, Dixon, Ellis, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom
-24

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 272. To amend Section 8-17-217, Code of Alabama 1975, relating to permissible fireworks, to exclude bottle rockets specifically

from the definition of fireworks that may be sold within the state by establishing minimum size requirements for sky rockets, but to provide that such devices may be stored by licensed manufacturers, distributors and wholesalers within the state for sale outside the state, and to provide for an effective date.

was taken up.

Senator Denton offered the following amendment to the Bill, SB 272, to-wit:

AMENDMENT TO SB 272

Amend SB 272, on Page 3, Line 12, as follows:

By deleting the figure "1992," and inserting in lieu thereof the following:

"1993,"

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), and Smith (J) -23

Nays:

- 0

And said Bill, SB 272, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Figures, Foshee, Ghee, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Smith (B) -24

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Mitchell, B.I.R., SB 118, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Figures, Foshee, Ghee, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Smith (B) -24

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 118. To amend Sections 32-6-230, 32-6-231, 32-6-232, 32-6-233, 32-6-234, and 40-12-300, of the Code of Alabama 1975, relating to motor vehicle registration and license tags and placards of handicapped persons; and to establish license fees.

was taken up.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Fuller:

H. 154. To amend Section 17-4-150 of the Code of Alabama 1975, to provide further for the appointment of additional members to the board of registrars in any county with two courthouses.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing

Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 154 - to the Committee on Confirmations

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harvey:

H. 52. To amend Sections 40-1-33, 40-12-190, 40-12-192, 40-12-196, 40-12-198 and 40-12-200 of the Code of Alabama, 1975, as amended. To provide that under certain conditions gasoline or motor fuel may be delivered to the motor fuel tank of a motor vehicle in this state from a tank truck or a vehicle used for purposes of transporting and selling gasoline or motor fuel if certain conditions are met. To make licenses for the sale of, use and other disposition of gasoline and other petroleum products a matter of public record. To change the definition of gasoline. To provide that a person who is in arrears or default to the state for any taxes shall not be issued a license. To provide for penalties for operating without a license. To provide for a change in the requirements for persons transporting gasoline in the state. To provide the Revenue Department rule making and enforcement authority for the provisions of this chapter.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 52 - to the Committee on Confirmations

FURTHER CONSIDERATION OF SB 118

The Senate proceeded to further consideration of the Bill, SB 118.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and

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House of Representatives, I respectfully report the following Bills delivered to the Governor, with the date and hour of delivery, to-wit:

SB 49

SB 51

SB 53

SB 50

Delivered to the Governor, March 17, 1992, at 2:26 P.M.

SB 80

Delivered to the Governor, March 17, 1992, at 5:28 P.M.

**McDOWELL LEE,
Secretary of Senate.**

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 6 o'clock P.M., on motion of Senator Parsons, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, SB 118, the Senate adjourned until Thursday, March 19, 1992, at 10:45 A.M.

SEVENTEENTH LEGISLATIVE DAY

THURSDAY, MARCH 19, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Phillip Cook, Associate Minister, Lighthouse Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by David Rogers, Tallassee High School, Tallassee, Alabama.

RECESS

At 10:58 P.M., on motion of Senator Corbett, the Senate took a recess subject to the call of the Chair.

JOINT SESSION

At 11 o'clock A.M., in accordance with SJR 55, the Senate repaired to the Hall of the House of Representatives for the purpose of hearing the message of Judge Ray Corns.

The Session was called to order by Lieutenant Governor Folsom, President and Presiding Officer of the Senate. A quorum of the Legislature was present.

Thereupon, Judge Ray Corns was escorted to the Chair and delivered his message to the Legislature of Alabama.

At 11:50 A.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

-35

**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Sixteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

**JIM PREUITT,
Chairperson.**

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, March 24, 1992, at 2 o'clock P.M., which motion was adopted.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 62. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters upon reaching bills on third reading for the seventeenth legislative day of the 1992 Regular Session only:

	Page
S. 109	63
Home Builders Licensure Bd. estab., licensing and regulation	
S. 195	17
Conditional appropriation for swine disease eradication from gen'l. fund for F.Y. ending Sept. 30, 1993	
S. 254	63
Crime Victims Compensation Commission, name changed to Crime Victims Commission, assessment in juvenile offenders and violation cases, Secs. 15-23-3, 15-23-4, 15-23-17 am'd.	
S. 274	29
Correctional Peace Officers Foundation, exempt from payroll deductions requirements, Sec. 36-1-4.3 am'd.	
S. 365	60
Death penalty, offenses to incl. drive-by killings, Sec. 13A-5-40 am'd.	
S. 388	75
Child abuse, leading questions of cert. victims and witnesses auth. in criminal prosecution, Secs. 15-25-1 and 15-25-3 am'd.	

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills

and ordered same sent forthwith to the Senate without engrossment:

By Rep. Hooper:

H. 82. To define and provide for the establishment of community development districts; and to prescribe the method by which alcoholic beverages may be lawfully sold within such districts.

Also:

By Reps. Hawkins, Carns, Curry, Morton, Hooper, and Burke:

H. 89. To allow veterans of the Battle of the Bulge to purchase distinctive motor vehicle license plates or tags and to regulate the distribution and transfer of the plates or tags and the fee to be collected.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 82 - to the Committee on Commerce, Transportation, and Utilities

HB 89 - to the Committee on Finance and Taxation

FURTHER CONSIDERATION OF SB 251

The Senate proceeded to further consideration of the Bill:

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

as amended, having been postponed on the Sixteenth Legislative Day, was taken up.

And said Bill, SB 251, as amended by the substitute, as amended,

was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 31 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -31

Nays:

- 0

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 247. To amend Sections 27-40-1, 27-40-8, 27-40-12, 27-40-15 and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies so as to provide further for the regulation of such companies; to delete certain references to and authorization for designated agents; to require premium finance agreements to contain certain information; to substantially alter the procedure for return of gross unearned premiums upon cancellation of the insurance contract; to provide for time limits for the return of unearned premiums; and to provide where the amount of premium financed shall be sent.

Also:

S. 272. To amend Section 8-17-217, Code of Alabama 1975, relating to permissible fireworks, to exclude bottle rockets specifically from the definition of fireworks that may be sold within the state by establishing minimum size requirements for sky rockets, but to provide that such devices may be stored by licensed manufacturers, distributors and wholesalers within the state for sale outside the state, and to provide for an effective date.

Also:

S. 86. To amend Section 25-4-10, Code of Alabama 1975,

which defines the term "employment" for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

Also:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 28. To provide for the crime of sexual torture; and to provide penalties for the offense.

JIM PREUITT,
Chairperson.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Campbell:

S. 502. To amend Section 11-24-1, Code of Alabama 1975, which relates to regulation of lots, streets, drainage, and utilities in subdivisions; to provide that mobile home trailer parks may be similarly regulated; to provide for inspectors and fees for inspections; and to provide for penalties for violations.

Committee on Industrial
Development and Expansion

By Senator Bolling:

S. 503. To prohibit the stocking or placing of certain striped bass into the waters of the Lewis Smith Dam Reservoir; to provide for misdemeanor penalties for violation of this act; and to provide an effective date.

Committee on Agriculture,
Conservation, and Forestry

By Senator Waggoner:

S. 504. Regulating the use of explosives; to require that the commercial users of explosives be required to obtain a blasting license, and a local explosives use permit from the appropriate municipal issuing authority; and to require certain persons to be certified as blasters; to provide a licensure procedure; to require that certain records be maintained on blasting operations; to create a special fund in the State Treasury; to make certain exemptions; to provide for penalties for violations; to authorize administrative and civil remedies for violations; to establish standards relating to seismograph measurements; to provide for the issuance, refusal, suspension, revocation or renewal of a blasting license, permit, or a certification for blasting under certain conditions; to provide for certain emergency variations from the general provisions of this act; to make a supplemental appropriation to the Department of Industrial Relations; and to provide for effective dates.

Committee on Governmental
Affairs/Local Government

By Senator Waggoner:

S. 505. To amend Section 40-21-53 of the Code of Alabama 1975, relating to the gross receipts utility license tax, to abolish the electric bill credit granted to certain persons who are age 62 or older or who are totally and permanently disabled.

Committee on Public Welfare

By Senator Foshee:

S. 506. To provide for the keeping of records by junk dealers, scrap metal dealers, and scrap metal processors of all purchases of copper, aluminum, brass, and other scrap metals or junk and to provide that such records shall be subject to inspection by duly authorized law

enforcement officers and to provide penalties for violations.

Committee on Small Business

By Senator Foshee:

S. 507. To amend Section 36-26-26, Code of Alabama 1975, to provide a layoff procedure for certain state employees.

Committee on Public Welfare

By Senator Smith (J):

S. 508. Relating to unemployment compensation benefits; to allow an otherwise eligible person to apply before December 31, 1992, and receive unemployment benefits from the date of unemployment, retroactively effective to January 1, 1991, for the calendar year 1991.

Committee on Business
and Labor Relations

By Senator Ellis

S. 509. To exempt the Christian Help Center of Southwest St. Clair County, Inc., from the payment of all state, county, and municipal sales and use taxes.

Committee on Finance
and Taxation

By Senator Wilson (With Notice and Proof):

S. 510. To alter, rearrange and extend the boundary lines and corporate limits of the City of Pickensville in Pickens County.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 510, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey (With Notice and Proof):

S. 511. Relating to Clarke County government, to change the composition of the Clarke County Commission to provide that the Clarke

County Commission shall consist of five members elected from five single-member districts, with the chairmanship to rotate among said five members; and said chairman shall preside at all meetings and shall be entitled to vote on all matters coming before the County Commission; to provide for the terms of said Commissioners, and to require that the members of the commission shall reside within the boundaries of each district; and repealing all conflicting laws.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 511, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey (With Notice and Proof):

S. 512. Relating to Clarke County; providing for the county board of education to consist of five members elected from five single-member school board districts; providing for the division of Clarke County into five single-member county school board districts; providing for the terms of office; and repealing all conflicting laws.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 512, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Owens:

S. 513. To make a supplemental appropriation from the Airport Development Fund to the Department of Aeronautics for the fiscal year ending September 30, 1992.

Committee on Finance
and Taxation

By Senator Owens:

S. 514. To provide for a certain civil immunity from liability

arising out of the death or injury resulting from participating in equine-related activities; to provide exceptions; to provide for contractual and sign warnings; and to provide definitions of terms.

Committee on Judiciary/Civil

By Senator Horn:

S. 515. To authorize each district attorney to establish a restitution recovery division within the Office of the District Attorney; to provide for notice, judicial hearings, and determinations; to provide for revocation of probation or parole, the imposition of sentence, or collection in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; and to provide for certain criminal penalties and exceptions.

Committee on Finance
and Taxation

By Senator Preuitt:

S. 516. Proposing a Constitutional Amendment to provide for the prohibition of abortions in the state except to save the life of the mother, or in reported cases of specified rape or incest; to provide certain affirmative defenses for abortions performed when the pregnancy results from rape or incest; to provide that the woman upon whom the abortion is being performed is not subject to criminal penalties; to provide criminal penalties for the crime of abortion; to provide certain reporting requirements and criminal penalties for failing to report; and to repeal Section 13A-13-7 of the Code of Alabama 1975.

Committee on Health

The above Bill was read a first time at length as required by the Constitution.

RESOLUTION

Senators Parsons, Dial, and Wilson requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 63. ENCOURAGING CITIZEN PARTICIPATION IN THE LEGISLATIVE PROCESS.

WHEREAS, members of the State Senate of Alabama have dili-

gently defended and have solemnly sworn to support the Constitution of Alabama; and

WHEREAS, Section 25 of the Alabama Constitution of 1901 provides "That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances or other purposes, by petition, address, or remonstrance." ; and

WHEREAS, the members of this legislative body request instruction and direction from the citizens of this state and encourage interaction among the elected officials and the people they endeavor to represent; and

WHEREAS, the State Senate sincerely seeks and seriously solicits the people of Alabama to come to the Alabama State House, observe the actions of the Legislature, and meet with their Senators and other elected officers so that the democratic process may function in the manner envisioned by our founders; and

WHEREAS, the Alabama State Senate expressly wishes to invite members of the Hueytown Elementary School Parent Teacher Student Organization to return to Montgomery, express their concerns and interests, and exercise their constitutional right to assemble in a peaceful manner to seek redress of grievances from those invested with governmental power; and

WHEREAS, the Senate specifically recognizes the efforts of Johnny Smalley, Mrs. Sue Reeves, Mrs. Mary Ann Ryals, Mrs. Sheila Bowden, Mrs. Sheila Sanders, and Mrs. Ann Crawford, who on February 4, 1992, fulfilled their duties of citizenship in an exemplary manner and whose personal and economic sacrifices are acknowledged and appreciated; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That Johnny Smalley, Mrs. Sue Reeves, Mrs. Mary Ann Ryals, Mrs. Sheila Bowden, Mrs. Sheila Sanders, and Mrs. Ann Crawford, and all citizens of this state are respectfully invited to the Alabama State House, which shall be accessible to all citizens, to observe the meetings of their State Senate and to voice their opinions with their governmental representatives.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered to each enumerated person so that they may know of this invitation.

On motion of Senator Parsons, the Resolution was adopted by the Senate.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Agricultural and Mechanical University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 19th day of March, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. G. W. Ponder, III, of Cullman, Alabama, to the Agricultural and Mechanical University Board of Trustees. He will be replacing Mr. Waymon Sherrer and his term will expire January 31, 1998.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 19th day of March, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Agricultural and Mechanical University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Millican, Morton, Rogers (F), Collins, Smith (C), Willis, McDaniel, Black (M), Hill, Curry, and Knight:

H. 173. To change the name of the Alabama Special Educational Trust Fund.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 173 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. McDaniel, Smith (C), Fuller, McMillan, Sanderson, Burke, Biddle, Harper, Turner, Beasley, Rogers (J), Laird, Gaston, Carter, Clark (J), Freeman, Cullins, Mathis, Gullatt, Blakeney, Powell, Richardson, Smith (R), Haney, Venable, Dolbare, Rockhold, Lindsey, Mikell, Newton (C), Flowers, Turnham, Hammett, Box, Williams, Carothers, Campbell, Carns, Starkey, Morton, Zoghby, Holley, Morrow, Sanderford, Knight, Gaines, Escott-Russell, Clay, Layson, Penry, Kennedy, Melton, and Letson:

H. 287. Relating to employment security programs of the Department of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992; to provide for the collection, appropriation, and disbursement of such

assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment; to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; and to clarify the procedure for determining shared costs.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 287 - to the Committee on Business and Labor Relations

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Campbell (With Notice and Proof):

H. 406. Relating to Calhoun County; providing that beer or ale may be sold in cans not exceeding 24 fluid ounces in size.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 406, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Petelos (With Notice and Proof):

H. 497. Relating to Jefferson County; to allow persons engaged

in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Jefferson County board or commission dealing with the planning, zoning, or subdivision of real estate in Jefferson County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within the municipality within Jefferson County; and to provide for retroactive effect.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 497, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Cullins (With Notice and Proof):

H. 538. Relating to Tallapoosa County; to provide for a referendum election held in the June 1992 primary election in which the electors of the county shall select a system of county road and bridge maintenance based on three alternative choices: one alternative is to keep the current modified unit system as provided in Act No. 91-355 of the 1991 Regular Session; a second alternative is to adopt a proposed act providing for a county commissioners district maintenance system as provided herein as Item I of Section 1; and a third alternative is to adopt a proposed act providing for a unit system as provided herein as Item II of Section 1.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 538, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Clay (With Notice and Proof):

H. 542. Relating to Bullock County; providing for the election of the county commission and the county board of education from five single-member districts; providing for the election of a chair of the county commission and the board of education and the compensation of the chairs; and providing for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS AT-

REGULAR SESSION
17th Day

1113

TACHED TO THE BILL, HB 542, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB's 406, 538, and 542 - to the Committee on Local
Legislation No. 1

HB 497 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Cagle, Fuller, Drake, Crow, Hooper, Hogan, Rogers (F), White, Walker, Poole, Melton, Buskey (JL), Barnes, Dolbare, Buskey (JE), Smith (R), Cullins, Laird, Burke, Morrow, Sanderson, Curry, Anderson, Bowling, Layson, Millican, McDowell, Clay, Johnson, Willis, Warren, McKee, Spratt, Penry, Richardson, Rockhold, Flowers, Smith (C), Starkey, Petelos, Bugg, Ford, Turner, Freeman, Parker (T), Butler, Kennedy, Williams, Holladay, Cosby, Zoghby, Gullatt, Mikell, Hill, Black (L), Haynes, Letson, Black (M), Perdue, Newton (D), McClain, Carter, Clark (W), Powell, Morton, Lindsey, and Hamilton:

H. 468. To amend Section 25-4-72, Code of Alabama 1975, as amended, relating to unemployment compensation weekly benefit, so as to increase the maximum of such benefit.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 468 - to the Committee on Public Welfare

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Morrow:

H. 98. To authorize and approve a compact with the State of Mississippi to promote and develop trade, commerce, industry, and employment opportunities for the public good and welfare in northeast Mississippi and northwest Alabama through the establishment of a joint interstate authority to acquire certain railroad properties and facilities.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 98 - to the Committee on Industrial Development and Expansion

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Richardson, McDaniel, Sanderford, Powell, Smith (C), Rogers (F), Goodwin, Black (M), Letson, Haney, Smith (R), Butler, Burke, Bowling, Starkey, Turnham, Cullins, and Bryant:

H. 40. To amend Sections 9-11-55 and 9-11-56, Code of Ala-

bama, 1975, relating to certain nonresident fishing licenses, so as to further provide for the cost thereof.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 40 - to the Committee on Agriculture, Conservation, and Forestry

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Higginbotham:

H. 163. To amend Section 9-11-417, Code of Alabama 1975, relating to hunting licenses on commercial fowl hunting preserves, so as to provide for a 7-day "commercial fowl hunting preserve" hunting license.

Also:

By Rep. Burke:

H. 470. To provide for the environmental commemorative tag program; to provide for certain fees for environmental commemorative tags to be distributed to the Alabama Environmental Education Fund to be used for environmental education; for this purpose to amend Section 32-6-150 of the Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to

appropriate Standing Committees, as follows:

HB 163 - to the Committee on Agriculture, Conservation, and Forestry

HB 470 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Penry, McMillan, and Harper:

H. 131. To provide for a commercial party boat license issued by the Division of Marine Resources of the Department of Conservation and Natural Resources for certain boats; to provide for the disposition of net revenues generated from the sale of the licenses; to provide for criminal misdemeanor penalties; and to provide for an effective date.

Also:

By Rep. Laird:

H. 164. To allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 131 - to the Committee on Agriculture, Conservation, and Forestry

HB 164 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Ford:

H. 88. Reappropriating certain funds to the Attalla Board of Education and permitting the board of education to expend the funds for educational purposes.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 88 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Hammett:

H. 50. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 50 - to the Committee on Governmental Affairs/State Administration

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Hamilton, Turner, Starkey, Butler, Burke, Carter, Powell, Ford, Black (M), Goodwin, Mikell, Haney, Smith (R), Hill, Knight, Parker (P), Richardson, Holley, Mathis, Newton (C), Willis, Hogan, McKee, Smith (C), and Hooper:

H. 41. To amend Sections 9-11-46, 9-11-47, 9-11-48, and 9-11-49, Code of Alabama 1975, relating to nonresident hunting licenses, so as to increase the fees therefor, and to delete certain provisions of Sections 9-11-47 and 9-11-49 relating to length of deer seasons under such licenses and to authorized guide hunting services.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 41 - to the Committee on Agriculture, Conservation, and Forestry

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Butler, Hall, Haney, Grayson, Richardson, Anderson, Sand-

erford, Freeman, and Burke:

H. 275. Requiring certain businesses that advertise in a manner that solicits or entices customers to bring alcoholic beverages to the business for on premises consumption to have an Alcoholic Beverage Control Board Liquor License.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 275 - to the Committee on Judiciary/Criminal Justice and Public Safety

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. White and Morrow:

H. 298. To provide that a pupil who is exempt from taking an examination shall be considered as being in attendance during the time of the examination.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 298 - to the Committee on Public Welfare

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and

ordered same sent forthwith to the Senate without engrossment:

By Reps. Carter and Hamilton:

H. 491. Proposing an amendment to the Constitution of Alabama of 1901, relating to Limestone County, prohibiting any municipality in a county contiguous to Limestone County, in which the sale and distribution of alcoholic beverages is authorized by law and whose municipal limits extend into Limestone County from selling or distributing alcoholic beverages in that portion of the municipality located in Limestone County.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 491 - to the Committee on Rules

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 55. INVITING JUDGE RAY CORNS TO ADDRESS A JOINT SESSION OF THE LEGISLATURE OF ALABAMA.

Also:

SJR 56. CONFERRING UPON JAMES JOHNSTON HICKS OF BIRMINGHAM THE DESIGNATION OF "DISTINGUISHED PROFESSOR EMERITUS OF HIGHER EDUCATION" IN ALABAMA.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 4. EXTENDING THE TASK FORCE ON CHILDREN'S REHABILITATION SERVICES AS RECOMMENDED IN THE REPORT FILED JULY 29, 1991 BY THE JOINT LEGISLATIVE COMMITTEE ON THE CRISIS IN CHILDREN'S REHABILITATION SERVICES.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Gaines:

HJR 180. INVITING PATRICK TAYLOR OF NEW ORLEANS, LOUISIANA, TO ADDRESS THE LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most cordially invite Patrick Taylor of Taylor Energy Company, New Orleans, Louisiana, to address the Alabama Legislature on March 24, 1992, at which time the Legislature will convene in joint session to hear Mr. Taylor's remarks.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Taylor, advising him of this invitation and of our hopeful anticipation of his acceptance.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the

Resolution, HJR 180, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Hill:

HJR 178. COMMENDING KYLE SEWELL OF ALABASTER, ALABAMA, SHELBY COUNTY'S EMS HONOREE OF THE YEAR.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 178, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Turner and Clark (W):

HJR 170. COMMENDING GWENDOLYN EUGENIA PRICHARD LEWIS OF CITRONELLE, ALABAMA.

Also:

By Reps. Cosby, Bryant, and Thomas:

HJR 173. COMMENDING FILM PRODUCER JOHN WILSON.

Also:

By Reps. Cosby, Bryant, and Thomas:

HJR 174. COMMENDING FILM PRODUCER BOB SOLO, AND WELCOMING HIM BACK TO ALABAMA AND THE GREATER SELMA AREA.

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Also:

By Reps. Zoghby, Rockhold, and Gaston:

HJR 175. MOURNING THE DEATH OF FORREST C. WILSON OF MOBILE, ALABAMA.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolutions, HJR's 170, 173, 174, and 175, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Penry, McMillan, Zoghby, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, and Willis:

HJR 169. COMMEMORATING THE DEDICATION OF THE VIETNAM VETERANS MEMORIAL IN WASHINGTON, D. C.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 169, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Drake, Butler, Clark (J), Melton, Goodwin, Cagle, Anderson, Letson, Hogan, Morrow, Hall, Lindsey, Black (M), Ford, Harvey, Carter, Bowling, Starkey, Harper, Fuller, Haynes, Hamilton, Turnham, Hammett, Poole, Newton (C), Beasley, Mathis, Carothers, Laird, Willis, Crow, Hooper, Penry, Box, Biddle, Cosby, Blakeney, Rockhold, Bryant, Johnson, Williams, Holley, Venable, Holladay, Layson, Dolbare, Clark (W), Buskey (JE), Cullins, Holmes, Flowers, McDaniel, Burke, Parker (P), Knight, Newton (D), Sanderford, Zoghby, and McMillan:

HJR 132. CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON THE FEASIBILITY STUDY ON ESTABLISHING TOLL ROADS FROM HUNTSVILLE TO GULF SHORES, ALABAMA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee to study the feasibility of building toll roads from Huntsville to Gulf Shores, Alabama. The committee shall be composed of five members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets of building toll roads from Huntsville to Gulf Shores, Alabama, including the economic impact on the state, various communities, towns, municipalities, and counties between the two points and the impact on tourism, and any pertinent areas the committee believes applicable.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the fifth legislative

day of the 1993 Regular Session, and may report at any special session before, as it deems appropriate, whereupon, the committee shall stand dissolved and discharged of any further duties and liabilities. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed ten thousand dollars (\$10,000).

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 132, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Campbell and Sanderson:

HJR 55. DESIGNATING CALENDAR YEAR 1992 AS THE "YEAR OF CLEAN WATER," AND OCTOBER 1992 AS "CLEAN WATER MONTH" IN ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 55, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Reps. Beasley, Carothers, and Mathis:

HJR 146. RELATING TO DR. MARTIN LUTHER KING'S CONTRIBUTIONS AS RECOGNIZED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DOTHAN, AND NAMING THE "MARTIN LUTHER KING, JR. BOULEVARD," IN ACCORDANCE WITH THE BOARD'S REQUEST.

WHEREAS, the following recognition was expressed by the Board of Commissioners of the City of Dothan:

"WHEREAS, the City of Dothan recognizes Dr. Martin Luther King, Jr.'s contribution to the equality of all people through nonviolent means, and

"WHEREAS, Dr. Martin Luther King, Jr. met a tragic and untimely death on April 4, 1968, in Memphis, Tennessee, but his ideals and dream live on in hearts of all people, and

"WHEREAS, the nations of the world have recognized Dr. Martin Luther King, Jr.'s contributions to society, and

"WHEREAS, it is only fitting and proper that the City of Dothan recognize the contributions of Dr. Martin Luther King, Jr. in gratitude and in honor of his service to all of the citizens of this city, state and nation, and

"WHEREAS, it is both appropriate and desirable that he be singularly recognized and that his life be perpetuated in public memory;" and

WHEREAS, the following was resolved by the Board of Commissioners of the City of Dothan, Mayor Alfred Saliba, President of the Board of Commissioners, and Associate Commissioners George Williams, Jr., John H. Glanton, Jr., Don Clements, Chester Sowell, Steve Stokes and George Gaut:

"That as a monument to his many contributions to the City of Dothan, the State of Alabama, and the United States of America that section of U. S. Highway 431 North, beginning at the intersection of Reeves and North Oates Streets and traveling north across the Ross Clark Circle to the intersection of Roney Road and U. S. Highway 431 and ending at that point, shall hereafter be designated and named the

Martin Luther King, Jr. Boulevard." ; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, in accordance with the request of the Board of Commissioners of the City of Dothan, "that section of U. S. Highway 431 North, beginning at the intersection of Reeves and North Oates Streets and traveling north across the Ross Clark Circle to the intersection of Roney Road and U. S. Highway 431 and ending at that point, shall hereafter be designated and named the Martin Luther King, Jr. Boulevard."

BE IT FURTHER RESOLVED, That, in accordance with the request of the Board of Commissioners of the City of Dothan, copies of this resolution shall be sent to the family of Dr. Martin Luther King, Jr.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 146, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Willis, Butler, Fuller, Crow, Cagle, Bryant, Mikell, Hogan, Buskey (JL), Walker, McKee, Blakeney, Black (L), Mathis, Beasley, Holladay, Williams, Cosby, Venable, Poole, Thomas, Smith (C), Laird, Turner, Penry, Gaston, Kvalheim, Rockhold, Gullatt, Cullins, Carothers, Flowers, Higginbotham, Hooper, Ford, Burke, Harvey, Barnes, Curry, Clark (W), Lindsey, Warren, Dolbare, Newton (C), Layson, Campbell, Hammett, Holley, Johnson, Haynes, McClain, Rogers (J), Payne, Carns, Hawkins, Haney, Hamilton, Richardson, Grayson, Petelos, Morrow, Millican, Black (M), Bowling, Powell, Harper, Clark (J), Box, White, Gaines, McDaniel, Hill, Collins, Rogers (F), Drake, Anderson, Letson, Goodwin, McMillan, Turnham, Parker (T), Escott-Russell, Holmes, Carter, and Smith (R):

HJR 134. REQUESTING THE PUBLIC SERVICE COMMISSION TO DECREASE THE RATES CHARGED BY TELEPHONE

COMPANIES IN ALABAMA TO RURAL VOLUNTEER FIRE DEPARTMENTS.

WHEREAS, rural volunteer fire departments perform a vital community service; and

WHEREAS, rural volunteer fire departments are charged commercial telephone rates even though they are seldom on actual fire department premises; and

WHEREAS, a decrease in rates would provide additional funds for the purchase of equipment, supplies, and other essential needs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Public Service Commission is requested to review the rates charged by the various telephone companies operating in Alabama to the rural volunteer fire departments.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to each member of the Public Service Commission.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 134, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Morrow, Millican, Black (M), Goodwin, and Hall:

HJR 157. URGING CONGRESS TO NAME THE LAKE NOW KNOWN AS "UPPER BIG BEAR LAKE" IN HONOR OF U. S. CONGRESSMAN TOM BEVIL OF ALABAMA.

WHEREAS, among his many accomplishments as a member of

Congress since 1967, Tom Bevil of Jasper, Alabama, has been instrumental in securing funding for those lakes, including the lake known as "Upper Big Bear Lake", that comprise the Bear Creek Development Authority which is owned by and under the control of the Tennessee Valley Authority; and

WHEREAS, in recognition of Congressman Bevil's key role in this project, the Alabama Legislature deems it most fitting and desirable that he be recognized for his endeavors, and that the lake called "Upper Big Bear Lake" be named in his honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most respectfully urge the United State Congress to take action, as necessary, to name and designate the Bear Creek Authority lake known as "Upper Big Bear Lake" as the "Tom Bevil Lake."

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the Alabama Congressional Delegation in Washington, D. C. for appropriate and timely action.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 157, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Harper, Fuller, Curry, Morton, Gaines, and McKee:

HJR 162. URGING THE UNITED STATES CONGRESS TO CEASE CREATING UNFUNDED MANDATES FOR IMPLEMENTATION BY STATE GOVERNMENTS.

WHEREAS, the economic well-being of our state is affected by unfunded mandates created by Congress for implementation; and

WHEREAS, the Alabama Legislature, on behalf of the citizens of Alabama, expresses disappointment over the fact that Congress is not

funding mandates created for implementation by this state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That to further the economic interest of this state we urge the United States Congress to cease creating unfunded mandates for implementation by our state government.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Speaker of the United States House of Representatives, President of the United States Senate, and each member of the United States Senate and House of Representatives from Alabama.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 162, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Powell, Parker (P), Curry, Bugg, Morrow, Smith (C), Rogers (F), Morton, Hamilton, Parker (T), Collins, Turnham, Mikell, Buskey (JL), Holmes, Newton (C), Carothers, Penry, Cosby, and Sanderford:

HJR 155. INVITING JUDGE RAY CORNS TO ADDRESS A JOINT SESSION OF THE LEGISLATURE OF ALABAMA.

WHEREAS, Judge Ray Corns of Cabin Creek, Kentucky, is recognized as an expert in the field of education law; and

WHEREAS, Judge Corns is the co-author of Public School Laws, a textbook utilized in over 72 colleges and universities nationwide and has served as the legal advisor for two Governors of Kentucky, the Chief Legal Counsel for the Kentucky Department of Education, an Assistant Attorney General for the State of Kentucky, a Circuit Judge, and is

presently serving as Secretary of the Kentucky Justice Cabinet; and

WHEREAS, Judge Corns issued the original opinion in the landmark case of *Rose v. The Council for Better Education, Inc.*, in which the system of financing elementary and secondary public schools in Kentucky was declared unconstitutional, resulting in the 1990 Kentucky Education Reform Act that appropriated over \$800,000,000 new dollars for education; and

WHEREAS, Judge Corns, in addition to his legal expertise in education law, is renowned for his wit and wisdom, his column "The Corn Crib" is a regular feature in many newspapers; and

WHEREAS, the State of Alabama is presently at a critical junction in its history, as was Kentucky in 1989, and the observations and remarks of Judge Ray Corns would be of great benefit to the Legislature of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Judge Ray Corns is most respectfully requested to appear before a joint session of the Legislature of Alabama on March 19, 1992, at 11:00 a.m., whereupon the members of the Alabama House of Representatives and the Alabama Senate will assemble in joint session to hear his remarks.

BE IT FURTHER RESOLVED, That the Clerk of the House, by copy of this resolution, advise Judge Corns of this invitation and of our hopeful anticipation of his acceptance.

GREG PAPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 155, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Dolbare:

HJR 152. RECOGNIZING OLIN CORPORATION UPON ITS 100TH ANNIVERSARY CELEBRATION.

WHEREAS, it has come to the attention of this body that Olin Corporation, which has long been a significant employer in Alabama, is celebrating its 100th anniversary this year; and

WHEREAS, Olin has established over the decades a reputation for superior products, safe operations and proactive community work; and

WHEREAS, Olin employs more than 275 individuals at its chemicals plant in McIntosh, Alabama, which is celebrating its own 40th anniversary this year; and

WHEREAS, Olin is a major contributor to the quality of life in its communities, from its encouragement of employee volunteerism to its sponsorship of community emergency response training to its support for innovative programs such as Think Earth, a program encouraging environmental awareness that is taught in elementary schools by Olin volunteers, and the Alabama School of Math and Science, which has to date received \$100,000 from Olin, now therefore

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we congratulate Olin Corporation on 100 years of business and its McIntosh plant on 40 years of service; that we commend its management and employees for their commitment to total quality, safety and environmental excellence; and that we extend our best wishes to them for continued success in the future.

BE IT FURTHER RESOLVED, That a suitable copy of this preamble and resolution be presented to Olin Corporation's McIntosh plant as a token of our respect and esteem.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Lindsey, the Rules were suspended and the Resolution, HJR 152, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Starkey:

HJR 123. COMMENDING BOBBIE G. MCDOWELL FOR EXTRAORDINARY SERVICE TO THE DEMOCRATIC PARTY AND SUPPORT OF WOMEN'S ISSUES.

Also:

By Rep. Ford:

HJR 124. COMMENDING RUTH JOHNSON OWENS FOR OUTSTANDING SUPPORT AND CONTRIBUTIONS TO THE DEMOCRATIC PARTY AND TO WOMEN'S ISSUES.

Also:

By Rep. Ford:

HJR 125. COMMENDING DONALD R. JARRELS OF HOKES BLUFF, ALABAMA FOR OUTSTANDING ACHIEVEMENT, AND DESIGNATING GADSDEN STATE COMMUNITY COLLEGE AS THE "NORTHEAST ALABAMA LEARNING CRAFT TRAINING CENTER.

Also:

By Reps. Hooper, Walker, McKee, and Buskey (JL):

HJR 126. MOURNING THE DEATH OF ELLEN ROGERS TROTMAN OF MONTGOMERY, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolutions, HJR's 123 and 124, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

The Resolutions, HJR's 125 and 126, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Gaston:

HJR 136. COMMENDING ROBIN A. LITAKER OF MOBILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT.

Also:

By Rep. Gaston:

HJR 137. COMMENDING JANET PATRICIA MURRAY OF MOBILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT AND SERVICE.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolutions, HJR's 136 and 137, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Cosby, Hill, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C),

Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 143. COMMENDING RICHARD SCRUSHY OF SELMA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

Also:

By Rep. Rich:

HJR 144. DESIGNATING MAY 1992 AS MOTORCYCLE SAFETY AND AWARENESS MONTH IN ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolutions, HJR's 143 and 144, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Hooper, McKee, and Walker:

HJR 161. COMMENDING EUNIE WALLDORF SMITH FOR OUTSTANDING SERVICE IN SUPPORT AND LEADERSHIP OF PRO-FAMILY AND PRO-LIFE CAUSES.

Also:

By Reps. Butler, Hall, Sanderford, Freeman, Grayson, and Haney:

HJR 163. COMMENDING JOYCE HAKLAR GRIFFIN OF HUNTSVILLE, ALABAMA.

Also:

By Rep. Box:

HJR 165. COMMENDING A. HOLMES WHIDDON OF MOBILE, ALABAMA, ON HIS APPOINTMENT AS ALABAMA'S FIRST ENVIRONMENTAL COURT JUDGE.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolutions, HJR's 161, 163, and 165, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Freeman, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 158. COMMENDING R. JOHN SAMANIEGO OF TUSCALOOSA, ALABAMA, AS THE 1991 OUTSTANDING FRATERNAL ORDER OF POLICE MEMBER OF THE YEAR.

Also:

By Reps. Hooper, McKee, Walker, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight, Kvalheim, Laird,

Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Warren, White, Williams, Willis, and Zoghby:

**HJR 160. MOURNING THE DEATH OF HENRY PAUL HAAS
OF MONTGOMERY, ALABAMA.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolutions, HJR's 158 and 160, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Cagle, Hall, Clark (J), Hooper, Willis, Hogan, Crow, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Campbell, Carns, Carothers, Carter, Clark (W), Clay, Collins, Cosby, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Holladay, Holley, Holmes, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, and Zoghby:

**HJR 164. DESIGNATING LABOR DAY 1992 AS "HELP
YOURSELF, BUY AMERICAN DAY" IN ALABAMA.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 164, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Campbell, Smith (B), Amari, Waggoner, Preuit, Dial, Windom, Langford, Bennett, Bailey, deGraffenried, Foshee, Dixon, Bolling, Horn, Sanders, Bedsole, Ghee, Lipscomb, Denton, Barron, Floyd, Wilson, and Little (With Amendment):

S. 454. To provide for a means to safeguard the public against injury and loss of life or the interruption of public services caused by damage to various underground facilities by communicating and coordinating adequate prior notification of excavation or demolition activities that might damage or interrupt services provided by certain underground facilities; to prohibit certain activities without first having ascertained the location of any potentially affected underground facilities; to prescribe procedures for notification of an intent to undertake certain activities; to prescribe certain activities to be included in an underground damage prevention program; to prescribe procedures for response to both emergency and routine notification and for reporting damage resulting from certain activities; to prescribe civil penalties for violations and exceptions to such penalties; to provide for the liberal construction and severability of any part of this act and to provide that this act shall become effective on January 1, 1993.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 481. Relating to the regulation of liquefied petroleum gas; to amend Section 9-17-109 of the Code of Alabama 1975, as amended, to provide for the filling of liquefied gas tanks and bottles; and to require

notification of work on liquefied petroleum gas systems.

By Senators Lindsey and Corbett:

S. 488. To amend Section 11-85-56, Code of Alabama 1975, to expand the powers and duties of regional planning and development commissions.

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Floyd (With Substitute):

S. 444. To define further the terms disability insurance and casualty insurance as they relate to workmen's compensation insurance and to amend Sections 27-5-4 and 27-5-6, Code of Alabama 1975.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Bedsole (With Substitute):

S. 327. To create the Respiratory Care Act to provide for the regulation and licensing of persons administering respiratory care; to provide for the powers, duties, and responsibilities of the Alabama State Board of Respiratory Care; to create a special fund for receipts collected by the board and the administration of the fund; to make appropriations from the Alabama State Board of Respiratory Care Fund to the Alabama State Board of Respiratory Care; and to provide for prohibited acts and penalties.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Bolling and Barron:

S. 432. To regulate the dispensing of hypodermic syringes or

needles designed for human use; and to provide penalties for violation of this act.

By Senator Dixon:

S. 393. Relating to the establishment of a disciplinary alternative program for the rehabilitation of licensed nurses whose professional competency may be impaired or compromised because of substance abuse or because of a physical or mental condition; and to authorize the Alabama Board of Nursing to establish an early identification, intervention, voluntary treatment, and rehabilitation program for those nurses.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with amendments, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Campbell (With Amendments):

H. 225. To authorize the Alabama Commission on Higher Education to develop a tuition loan program for talented residents to attend a postsecondary institution for the sole purpose and intent of becoming a certified teacher employed in critical need areas of the state.

By Rep. Buskey (JL) (With Amendments):

H. 233. To establish the Alabama Commission to Study the Tax Burden on Alabama Citizens with Low Income; to require the Legislative Fiscal Office and Alabama Department of Revenue to conduct a Tax Burden Study and to assist the Commission created herein; to provide for the powers and duties of said Commission; to provide for the severability of the provisions hereof; and to provide for an effective date.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Harper:

H. 236. To amend Section 41-19-3, Code of Alabama 1975, in order to further provide for effective management of state governmental operations.

By Rep. Harper:

H. 230. To repeal Section 40-1-32.1 of the Code of Alabama 1975, entitled the Proration Prevention Act of 1988.

By Rep. Turner:

H. 224. To amend Section 12-2-7, to give the Alabama Court of Civil Appeals exclusive and final jurisdiction of appeals of decisions affecting the tenure of employees of public schools; To amend Section 12-2-2, to provide that the justices of the Supreme Court, shall not have authority to issue writs of certiorari in matters of tenure of employees of the public schools, and to grant exclusive jurisdiction to the Court of Civil Appeals; To amend Section 12-3-10, to require that appeals of decisions affecting the tenure of employees of public schools shall receive preferential and expedited review over certain other civil cases within the exclusive jurisdiction of the Alabama Court of Civil Appeals.

By Rep. Kennedy:

H. 254. To provide further for the administrative procedures of the revenue department relating to the taxpayers' rights concerning refunds, penalties, assessments and appeals; to establish new uniform procedures for the administration of taxes administered by the department of revenue; to amend certain sections of Titles 11, 22, 32, 35 and 40 and to repeal certain sections of Titles 9, 22, 32 and 40, Code of Alabama 1975, relating to specific procedures for specific taxes, so as to standardize procedures for administering the revenue laws and to remove certain ambiguities and conflicts; to provide further for penalties; and to provide an effective date.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Smith (J) (With Substitute):

S. 424. To prohibit any person from possessing, without authority, any state, county, or municipal traffic sign; and to provide penalties.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said commit-

tee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 271. To amend Sections 13A-6-66 and 13A-6-67, Code of Alabama 1975, which relate to the crimes of sexual abuse in the first and second degrees, so as to increase the punishment for both crimes.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Little (With Substitute) (With Amendment):

S. 268. To make the willful violation of any provision of a temporary or permanent protection order or restraining order involving domestic relations or family violence issued pursuant to the Protection From Violence Act, Section 30-5-1 to 30-5-10, inclusive, Code of Alabama 1975, a Class A misdemeanor; to impose additional mandatory minimum penalties; to permit the arresting officer certain arrest powers with probable cause; to provide for an affirmative defense for lack of knowledge and burden of proof; to provide certain immunities; and to provide this act shall be construed in pari materia with Chapter 5 of Title 13A, Code of Alabama 1975, and other pertinent laws, relating to fines, sentences, and unlawful civil and criminal acts.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Hale:

S. 312. To provide that all deeds conveying an interest in real property shall contain, for ad valorem tax purposes, the mailing address of the grantee, and if more than one grantee, the mailing address of the grantee to whom statements and other notices regarding ad valorem taxes should be sent; and further providing that after the effective date of this act no deeds shall be accepted for recording in the probate courts of this state unless such information is contained therein.

By Senator Lindsey:

S. 319. To clarify, define, and re-affirm the sovereign relationship between the State of Alabama and the Choctaw Indians.

By Senator Waggoner:

S. 422. To amend Sections 22-8A-2, 22-8A-3, 22-8A-4, 22-8A-5, 22-8A-6, 22-8A-7, 22-8A-8, and 22-8A-9, Code of Alabama 1975, to: authorize competent adults to make written directions concerning the withholding or withdrawing of life-sustaining treatment and artificially provided nutrition and hydration in instances that are not necessarily limited to terminal conditions and permanent unconsciousness, permit the designation of proxy decision-makers, and provide for the appointment of surrogate decision-makers in instances where the patient has not made such a designation.

By Senator Floyd:

S. 214. To amend Section 41-5-21, Code of Alabama 1975, relating to audit reports by the Office of Examiners of Public Accounts, so as to provide for confidentiality of the working papers used in the preparation of such audit reports.

By Senator Mitchell:

S. 437. Relating to the judicial system and employees of the Supreme Court, Courts of Appeal, and State Law Library; to further provide for court costs in appellate cases to be deposited in the State Law Library Fund and that such funds be invested in an interest-bearing account; and to repeal Sections 12-2-150, 12-2-151, 12-2-152, 12-2-153, 12-2-154, 12-2-155, 12-2-156, 12-2-158, and Sections 12-4-1, 12-4-2, 12-4-3, and 12-4-4, inclusive, Code of Alabama 1975.

By Senators Ghee and Figures:

S. 461. To codify the law regarding devolution of an estate at death and provide restrictions; to provide further for the duties and powers of a personal representative of an estate; to provide further for payment of expenses in estate litigation and employment of agents and employees of the estate; to provide for bonding requirements of a personal representative or special administrator; to repeal Sections 43-2-80, 43-2-81, 43-2-273, 43-2-310, 43-2-315, and 43-2-316, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 101. Relating to records relating to the operation of pawnbroker or flea market businesses; and to provide for penalties for violations.

By Senator Campbell:

S. 329. To prohibit the enactment by local governmental units of ordinances, resolutions, or rules controlling the amount of rent charged for leasing private property; and to provide for the retroactive effect of this act.

By Senator Floyd:

S. 463. To allow an increase in the composition of the waterworks and sewer board and board of education of any Class 4 municipality which has adopted a mayor-council form of government pursuant to Chapter 43B, Title 11, Code of Alabama 1975; and to amend Sections 11-50-313, Code of Alabama 1975, relating to the board of directors of county and municipal water, sewer, gas, and electric systems and 16-11-2, Code of Alabama 1975, relating to the city board of education.

By Senator Little:

S. 487. Relating to Class 6 municipalities; to provide for certain circumstances where a motor vehicle shall be considered an abandoned motor vehicle on private property; and to provide for the use of a wheel lock device.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator Little (With Substitute) (With Amendments):

S. 133. To prohibit the discharge of waste and sewage into the

waters of the state; to require certain vessels and structures to have certain marine sanitation devices; to regulate the sanitation facilities of marinas and boat storage facilities; to provide for certain fees and their distribution; to prescribe criminal penalties and administrative penalties; to repeal certain laws, and to provide for a prospective effective date.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bedsole:

S. 416. To amend Section 2-27-11 of the Code of Alabama 1975, relating to permitting persons who purchase and use restricted-use pesticides; and to provide further for the setting of the fee by the board.

By Senator Bedsole:

S. 465. To provide a special lifetime hunting, fishing, and combination license for residents who are 64 years of age.

By Senator Lindsey:

S. 476. To amend Section 2-15-122 of the Code of Alabama 1975, which sets up notice, review, and hearing requirements by the commissioner so as to allow the commissioner to hold a meeting of the board at any place; to amend Section 2-15-124 of the Code of Alabama 1975, which specifies deposit requirements so that the monies spent are appropriated; to amend Section 2-15-125 of the Code of Alabama 1975, which provides for lapse of charter so as to also cause a charter to lapse when its livestock market license is revoked; to amend Section 2-15-127 of the Code of Alabama 1975, which sets up appeal procedures to require that appeals be taken to circuit court and to provide that appeals must be perfected within 30 days and also to set up guidelines to be followed by the court in hearing the appeal.

By Senator Lindsey:

S. 477. To repeal Section 2-15-40 of the Code of Alabama 1975, which defines dealer; to repeal Section 2-15-41 which requires a dealer permit for vehicles hauling livestock; to repeal Section 2-15-42 which provides for forfeiture of the permit for violation of rules and regulations; to repeal Section 2-15-43 which requires dealers to obtain

bills of sale and to issue way-bills; to repeal Section 2-15-45 which authorizes the adoption of rules and regulations; to repeal Section 2-15-46 which provides punishment for violations of these sections; to repeal Section 2-15-47 which exempts the buying or hauling of livestock when the person buying or hauling said livestock is using said livestock for the purpose of grazing, feeding, or milking; to repeal Section 2-15-48 which allows the permit required under these sections to be in addition to any other license required by the state, county, or city; and to provide an effective date.

By Senator Ghee:

S. 501. To provide for the Alabama Recreational Trails System within the Department of Conservation and Natural Resources for the development of recreational trails; to provide for the Alabama Rails to Trails Program within the trail system; to provide for an advisory council; and to provide for certain restrictions and penalties on canoe trails.

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Mitchell, Hale, Denton, Smith (B), Owens, Lipscomb, and Waggoner:

S. 322. Relating to all civil actions in tort, contract or otherwise against materialmen who provide labor, material and supplies used in the construction of an improvement on or to real property; to provide a definite statute of limitations of three years after a cause of action accrues or arises in all such actions; to provide a bar to relief for all causes of action and to all rights of action which accrue more than seven years after the substantial completion of construction of an improvement on or to the real property; to provide for an exception to the bar to relief with respect to actions accruing more than seven years after the substantial completion of construction of an improvement on or to real property where there is a written express warranty or indemnity which by the written terms thereof shall extend beyond the period of seven years; to provide when a cause of action accrues or arises; to provide that this act applies to causes of action which have accrued prior to its effective date; to provide that this act does not create any cause of action against materialmen or any other person; to define terms; and to repeal all conflicting laws.

By Senators Mitchell, Smith (B), Mitchem, Lipscomb, Little, Owens, Bedsole, Bolling, Bailey, Smith (J), Foshee, Denton, Hale, Ellis, deGraffenried, and Preuitt:

S. 325. Relating to civil actions against architects, engineers, and certain licensed general contractors; to provide a statute of limitations of three years after a cause of action accrues or arises in certain cases; to provide that all causes of action and to all rights of action which accrue more than seven years after the substantial completion of construction of an improvement to real property shall be barred; to provide when a cause of action accrues or arises; and to provide a savings clause to causes of action which have accrued prior to the effective date of this act.

By Senator Mitchem:

S. 479. To amend Sections 22-5-2, 22-5-4, 22-5-5, and 22-5-6 of the Code of Alabama 1975, relating to the Commission on Physical Fitness; to further provide for the name, powers, meetings, and responsibilities of the Commission on Physical Fitness; to include the support, sponsorship, and co-sponsorship of sports events by the Commission; to include, except for the next executive director and successors, the present employees of the commission under the merit system; to provide for a management coordinator for the commission; and to provide for the effective date.

By Senator Wilson:

S. 485. To amend Sections 8-6-10 and 8-6-16 of the Code of Alabama 1975, to require the filing of a notice of issuance for certain exempt securities; to provide further for exemption of certain exchange listed securities; to provide administrative cease and desist authority to the commission; and to provide for court ordered rescission, restitution, or disgorgement for violations of the Alabama Securities Act.

By Senator Smith (B):

S. 472. To provide for a construction industry craft training education program in vocational schools, technical schools, trade schools, and colleges; to establish the Alabama Construction Industry Training Board; and to impose a construction permit surcharge to fund a construction industry craft training program.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the fol-

lowing bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Figures:

S. 292. To amend Sections 8-19-3, 8-19-5, 8-19-6 and 8-19-8, Code of Alabama 1975, relating to the Deceptive Trade Practices Act, to add provisions relating to promotional giveaways, credit repair services, campground membership facilities, career consulting firms, loan brokers, health spas, and odometers; and provide misdemeanor and felony penalties for specific violations.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Campbell:

S. 464. Proposing an amendment to the Constitution of 1901, consolidating under one county public authority or corporation any public authorities or corporations created by Lawrence County for economic development in Lawrence County pursuant to Amendment No. 190 of the Constitution of 1901, and all powers and authority granted to Lawrence County by Amendment No. 190; to provide that the county public authority or corporation shall assume any outstanding obligations created pursuant to Amendment No. 190.

The above Bill was read a second time at length as required by the Constitution.

By Rep. Letson (With Notice and Proof):

H. 460. Relating to Lawrence County; providing for the levy and collection of fees for recording certain documents filed for record in the office of the judge of probate, providing for the distribution and use of the fees, and providing for retroactive effect.

By Rep. Carter (With Notice and Proof):

H. 128. Relating to Limestone County, repealing Act No. 88-411, H. 892, 1988 Regular Session, relating to the compensation of the chief deputy sheriff.

By Reps. Hogan and Cagle (With Notice and Proof):

H. 327. Relating to Walker County; authorizing the County Commission to levy an additional ad valorem tax and providing for a referendum.

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Hale:

S. 474. To amend Sections 12-19-71, 12-19-72, 12-19-171, 12-19-172, 12-19-174, 12-19-175, 12-19-176, 12-19-178, and 12-19-179, Code of Alabama 1975, to increase the fees and costs in circuit and district courts; to further provide for the distribution of fees and costs in circuit and district courts so as to enhance that portion of the fees and costs that is distributed to the state general fund; to make supplemental appropriations for the fiscal year ending September 30, 1992; to make appropriations for the fiscal year ending September 30, 1993; to repeal all laws or parts of laws in conflict herewith; and to provide for the effective date of this act.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Little (With Notice and Proof):

S. 484. Providing further for the salary of the sheriff of Lee County, Alabama.

By Rep. Flowers (With Notice and Proof):

H. 265. Relating to the City of Troy in Pike County; authorizing the city council to levy an additional ad valorem tax for education purposes; and providing for a referendum.

REPORT FROM RULES

Senator Preuitt, Chairperson of the Standing Committee on Rules,

reported that said committee, in session, had acted on the following Senate Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

SJR 52. CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE ON ELECTION LAW REFORM.

And on motion of Senator Foshee, said Resolution, SJR 52, was adopted by the Senate.

RESOLUTIONS

Senator Dial offered the following Senate Joint Resolution, to-wit:

SJR 64. COMMENDING VINCENT K. MOONEY, UNITED STATES MARINE CORPS, FOR DISTINGUISHED SERVICE DURING OPERATION DESERT STORM.

WHEREAS, Vincent K. Mooney, a native of Atlanta, a resident of Montgomery, and a Captain in the United States Marine Corps, is a member of a family well established in the State of Alabama and the U.S. armed forces; his paternal great-grandfather, who was born in Barbour County, served with the Army of the Confederate States of America, and his grandfather, Ernest E. Gilmore of Montgomery, had six sons who served their country during World War II and the Korean Conflict; and

WHEREAS, Captain Mooney, who graduated from the University of Central Florida in 1986 and was commissioned in the Marine Corps, attended the USMC Basic Officer Course at Quantico, where he received the Military Skills Award, and, upon completion of flight training school in Texas, was assigned as a fighter pilot to a Marine FA-18 squadron based in California; and

WHEREAS, in early August 1990, Captain Mooney and his squadron joined the U.S. forces in Saudi Arabia where he participated in the air assault on Baghdad and flew some 40 combat missions against the enemy; and

WHEREAS, for action in combat during Desert Storm, Captain Vincent Mooney received the Air Medal for heroic achievement in leading a flight of six aircrafts which destroyed a key strategic target in Iraq; the Navy Commendation Medal for heroic achievement in providing close air support to Marine ground troops engaged against the enemy; the Air Medal, with four strike/flight awards, for meritorious

achievement in aerial flight in support of combat operations in the Iraq and Kuwait theater; and the Navy Achievement Medal for superior professional achievement in organizing and implementing a Battle Damage Repair Team to insure expeditious return of a battle-damaged fighter aircraft to combat service; and

WHEREAS, Captain Mooney, now serving a second tour of duty with Marine and Navy forces in the Persian Gulf, is indeed a distinguished American whose extraordinary courage and valor against enemy forces has brought great credit upon himself, and the Corps; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Captain Vincent K. Mooney, United States Marine Corps, an Alabamian in whom we are justly proud and for whom a copy of this resolution shall be provided.

On motion of Senator Dial, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Bedsole and Dixon offered the following Senate Joint Resolution, to-wit:

SJR 65. URGING IMPLEMENTATION OF CERTAIN PROGRAMS IN THE ALABAMA EDUCATION IMPROVEMENT ACT OF 1991.

WHEREAS, during the 1991 Regular Session, this body enacted "The Alabama Education Improvement Act of 1991"; and

WHEREAS, the Legislature recognized that fundamental changes must be made in this state's public education system to prepare both children and adults to meet the challenges and opportunities of an increasingly competitive society and world; and

WHEREAS, we acknowledge that many of the mandates in the act cannot be implemented without additional funding; however, there are some programs that can be implemented at no cost or at a minimal cost; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge Dr. Wayne Teague, State Superintendent of Education, and the Department of Education to implement the programs in The Alabama Education Im-

provement Act of 1991 that require no additional funds or a minimum of funds.

BE IT FURTHER RESOLVED, That a copy of this resolution be directed to Dr. Teague so that he and the department may know of our desire.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 8, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, and Smith (B) -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 8. Relating to the City of Helena in Shelby County; to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), and Waggoner -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 182, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), and Waggoner
-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 182. Relating to Etowah County, authorizing the county commission to levy an annual license or privilege fee upon certain businesses, vocations, occupations, callings, or professions; authorizing the county commission to promulgate necessary rules and regulations; providing for the allocation of fee receipts; and providing a prospective effective date.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), and Waggoner
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 183, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,

Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 183. Relating to Etowah County; authorizing the Etowah county commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; to provide for the collection and enforcement of the tax and distribution of the proceeds therefrom; and to provide for civil penalties for violations.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 184, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 184. Relating to Etowah County; authorizing the county com-

mission to levy a privilege or rental license tax on every person engaged in the renting of real estate; providing certain exceptions and exemptions; providing for the computation, collection, and enforcement of the tax; providing penalties for failure to pay the tax; authorizing the county commission to promulgate necessary rules and regulations; providing that the tax information shall be confidential; and providing for the allocation of the tax receipts.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), and Waggoner -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 185, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), and Waggoner -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 185. Pertaining to Etowah County; to provide for an Etowah County Work Release Center; and to provide for the alternate confinement, at the court's discretion, of certain alternative punishments for eligible offenders to said center for the purpose of working at gainful employment or for rehabilitative purposes; to provide for a suspended work release program; to provide that any person so released who fails to

report for confinement as ordered shall be subject to the same punishment as provided for escape; to provide for the payment to the county by such persons of a portion of their net earnings and for utilization of the funds derived therefrom; to provide for the Etowah County Work Release Fund; to create the Etowah County Work Release Commission; to provide for the membership of said commission and for its powers and duties; to provide for immunity from civil liability, except in certain cases for county governmental units, and the Work Release Commission.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 186, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 186. Proposing a constitutional amendment relating to Etowah County, to provide that in every case in which the circuit courts, district courts or municipal courts of Etowah County should impose a

fine for any offense or violation of a criminal law, a traffic law or an ordinance of a political subdivision of Etowah County, there shall be imposed an additional fine, and to provide for the distribution of the revenues derived from said additional fine.

was read a third time at length as required by the Constitution and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 187, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner
-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 187. Relating to Etowah County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Etowah County Commission to levy additional costs and fees on certain civil and criminal cases in the county and to provide for the distribution of the funds collected.

was read a third time at length as required by the Constitution and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraf-

fenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 192, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 192. Relating to Etowah County; to provide for disposition of funds collected pursuant to Section 12-17-224, Code of Alabama 1975, so as to allow the same to be deposited into the District Attorney's Fund.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 314, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Horn, Langford, Lindsey,

Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt,
Smith (B), and Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 314. Relating to Cullman County; to amend Sections 1 and 12 of Act No. 83-778, S. 559, 1983 Regular Session, to increase a county lodging tax and provide further for the use of the proceeds of the tax.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett,
deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Horn, Langford,
Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt,
Smith (B), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 387, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett,
deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale,
Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt,
Smith (B), and Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 387. To alter, rearrange, and extend the boundary lines and

corporate limits of the municipality of Fulton in Clarke County.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and Waggoner -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Smith (J), B.I.R., SB 408, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Smith (J), and Waggoner -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 408. Relating to Lauderdale County; exempting senior citizen centers and community centers which primarily sponsor senior citizens' activities from all county and municipal sales and use taxes.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Lindsey,

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Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders,
Smith (J), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Denton, B.I.R., SB 427, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton,
Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb,
Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and
Waggoner -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 427. Relating to Colbert County, establishing a sheriff
reserve within the county sheriff's department.

was read a third time at length and passed, and ordered sent forthwith to
the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dial,
Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb,
Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), and
Waggoner -25

Nays: - 0

UNFINISHED BUSINESS

The Senate proceeded to consideration of the Unfinished Business
for today, which was the Bill:

S. 118. To amend Sections 32-6-230, 32-6-231, 32-6-232,
32-6-233, 32-6-234, and 40-12-300, of the Code of Alabama 1975,

relating to motor vehicle registration and license tags and placards of handicapped persons; and to establish license fees.

And said Bill, SB 118, was read a third time at length and passed and ordered sent forthwith to the House.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), and Waggoner -26

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Mitchem, B.I.R., SB 109, adopted.

Yeas 25 Nays 3

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), and Waggoner -25

Nays:

Senators:

Corbett, Lindsey, and Parsons

- 3

SPECIAL ORDER BILLS ON THIRD READING RESUMED

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 109. Relating to the licensure and regulation of persons in the home building industry by examination and issuance of licenses; to create the Home Builders Licensure Board and to impose licensing fees and penalties for violations of this act.

Senator Mitchem offered the following amendment to the Bill, SB 109, to-wit:

AMENDMENT TO SB 109

Amend Senate Bill 109, on page 1, line 28 by adding after the word "Relating" the following: "to the regulation of the home building industry"

Further amend Senate Bill 109 on page 4, Section 5, line 32 by adding after the word "established" the words "one of" before the word "the".

Further amend Senate Bill 109 on page 6, Section 6, line 31 by adding the following: "(6) This Act does not apply to mobile homes and shall not in any way change or interfere with the duties, responsibilities and operations of the Alabama Manufactured Housing Commission as defined in Section 24-4A-1 through Section 24-6-4, Code of Alabama, as amended."

Further amend Senate Bill 109, on page 7, Section 7, line 32 by deleting the word "or" and substitute therefore the word "for".

Which was adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchem, Owens, Sanders, Smith (B), Smith (J), and Waggoner -21

Nays:

- 0

Senator Lindsey offered the following amendment to the Bill, SB 109, as amended, to-wit:

AMENDMENT TO SB 109, AS AMENDED

On page 14, after line 20, insert the following language as a new Section 17 and renumber the existing Sections 17, 18, and 19 accordingly:

Section 17. The provisions of this Act shall not apply to any county the population of which is 50,000 or less according to the most recent federal decennial census.

On motion of Senator Mitchem, said amendment was laid on the table.

Yeas 11 Nays 8

Yeas:

Senators:

Bolling, Denton, Dial, Dixon, Figures, Hale, Little, Mitchem, Preuitt,
Smith (B), and Waggoner -11

Nays:

Senators:

Corbett, Ellis, Floyd, Foshee, Langford, Lindsey, Owens, and
Sanders - 8

Senator Corbett offered the following amendment to the Bill, SB 109, as amended, to-wit:

AMENDMENT TO SB 109, AS AMENDED

On page 14, after line 20, insert the following language as a new Section 17 and renumber the existing Sections 17, 18, and 19 accordingly:

Section 17. The provisions of this Act shall not apply to any county the population of which is 49,000 or less according to the most recent federal decennial census.

Which was adopted.

Yeas 20 Nays 1

Yeas:

Senators:

Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Figures, Floyd,
Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchem, Owens,
Preuitt, Sanders, Smith (B), and Waggoner -20

Nay: Senator Denton

- 1

Senator Little offered the following amendment to the Bill, SB 109, as amended, to-wit:

AMENDMENT TO SB 109, AS AMENDED

On page 8, Section 8, in line 25, delete the words "the Circuit Court of Montgomery County" and insert in lieu thereof the following:

, the circuit court with jurisdiction of licensee's residence, or if the licensee is out of state, then to the Circuit Court of Montgomery County,

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Corbett, deGraffenried, Dial, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner
-23

Nays:

- 0

Senator Lipscomb offered the following amendment to the Bill, SB 109, as amended, to-wit:

AMENDMENT TO SB 109, AS AMENDED

On page 4, on line 32, delete the language "twelve months" and insert in lieu thereof:

twenty-four months

On page 14, lines 25 and 26, delete all the language and insert in lieu thereof:

Section 25. The provisions of this Act must be advertised in each county in a newspaper of general circulation at least once a week for four consecutive weeks prior to implementation of this Act.

On motion of Senator Mitchem, said amendment was laid on the table.

Yeas 19 Nays 8

Yeas:

Senators:

Bailey, Bedsole, Bennett, deGraffenried, Dial, Dixon, Figures, Foshee, Hale, Langford, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Waggoner
-19

Nays:

Senators:

Bolling, Corbett, Ellis, Floyd, Ghee, Lindsey, Lipscomb, and Sanders
- 8

Senator Lipscomb offered the following amendment No. 2 to the

Bill, SB 109, as amended, to-wit:

AMENDMENT NO. 2 TO SB 109, AS AMENDED

On page 14, lines 25 and 26, delete all the language and insert in lieu thereof:

Section 18. The provisions of this Act must be advertised in each county in a newspaper of general circulation at least once a week for four consecutive weeks prior to implementation of this Act.

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Corbett, deGraffenried, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), and Waggoner
-23

Nays:

- 0

And said Bill, SB 109, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 27 Nays 2

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), Smith (J), and Waggoner
-27

Nays:

Senators:

Corbett and Parsons

- 2

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill

with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

JIM PREUITT,
Chairperson.

BUDGET ISOLATION RESOLUTION

Senator Denton, B.I.R., SB 195, adopted.

Yeas 21 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Figures, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Sanders, Smith (B), Smith (J), and Waggoner -21

Nay: Senator Parsons

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 195. Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1993, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, SB 195, to-wit:

SUBSTITUTE FOR SB 195

A BILL TO BE ENTITLED AN ACT

Relating to the eradication and control of swine diseases; to make a

conditional appropriation to the Department of Agriculture and Industries, for the fiscal year ending September 30, 1993, to indemnify owners of swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever, and other swine diseases.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the fiscal year ending September 30, 1993, there is appropriated to the Department of Agriculture and Industries, out of any monies in the State Treasury not otherwise appropriated, the sum of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary for the fiscal year, which sum shall be used and expended by the department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the Commissioner of Agriculture and Industries, or the State Veterinarian, for the purpose of arresting, eradicating, and preventing the spread of hog cholera disease, African swine fever, and other diseases of swine. The amount of any payments to owners of swine from this conditional appropriation shall be determined pursuant to the procedures and methods set forth under Sections 2-15-160 to 2-15-168, inclusive, of the Code of Alabama 1975.

Section 2. The appropriation made by Section 1 of this act shall be conditioned upon the condition of the general fund and with the approval of the Governor.

Section 3. This act shall become effective on October 1, 1992.

Which was adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Mitchem, Parsons, Sanders, Smith (B), Smith (J), and Waggoner -25

Nays:

- 0

And said Bill, SB 195, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried,

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Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Mitchem, Parsons, Sanders, Smith (B), Smith (J), and Waggoner -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Bedsole, B.I.R., SB 254, adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Parsons, Sanders, Smith (B), Smith (J), and Waggoner -22

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 254. To amend Sections 15-23-3, 15-23-4, and 15-23-17, Code of Alabama 1975, relating to the Crime Victims Compensation Commission; to change the name of the Commission to the Crime Victims Commission; to increase the per diem of commission members; and to further provide for assessments.

was taken up.

Senator Corbett offered the following amendment to the Bill, SB 254, to-wit:

AMENDMENT TO SB 254

On page 8, line 21, delete the figure and words "\$90 per day and mileage" and insert in lieu thereof the following:

the same mileage and per diem as allowed state employees

On motion of Senator Bedsole, said amendment was laid on the table.

Yeas 14 Nays 10

Yeas:

Senators:

Amari, Bedsole, Bolling, deGraffenried, Dixon, Ellis, Figures, Floyd,

Hale, Owens, Preuitt, Smith (B), Smith (J), and Waggoner -14

Nays:

Senators:

Bailey, Bennett, Corbett, Ghee, Hilliard, Langford, Lipscomb, Mitchell, Parsons, and Sanders -10

And said Bill, SB 254, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 0

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Figures, Ghee, Hale, Hilliard, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -23

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Parsons, B.I.R., SB 274, adopted.

Yeas 17 Nays 1

Yeas:

Senators:

Bennett, Bolling, Campbell, Denton, Dial, Ellis, Figures, Ghee, Hale, Hilliard, Langford, Little, Owens, Parsons, Preuitt, Waggoner, and Windom -17

Nay: Senator Amari - 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 274. To provide for a further exception to the requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller and delete the authority to make deductions for group insurance premiums.

was taken up.

The Standing Committee on Judiciary/Civil reported the following substitute for the Bill, SB 274, to-wit:

SUBSTITUTE FOR SB 274

A BILL
TO BE ENTITLED
AN ACT

To provide for a further exception to the requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller and delete the authority to make deductions for group insurance premiums.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-1-4.3 of the Code of Alabama 1975, as amended, is amended to read as follows:

"§36-1-4.3.

"The state comptroller shall adopt statewide policies which provide for deductions from the salaries of state employees or groups of state employees whenever a request is presented to the state comptroller by a group of participating state employees equal in number to at least five percent of all state employees; ~~provided, however, or, in the case of a request for a salary deduction in the name of the Correctional Peace Officers Foundation, at least two hundred state employees make the request, that deductions that are already~~ Deductions being made as of on April 23, 1985, shall continue to be made. ~~Such~~ The deductions shall be made at least monthly and shall be remitted to the appropriate company, association, or organization as specified by the employees. The deductions may be made for membership dues, and voluntary contributions, and group insurance premiums. Any deduction provided under the provisions of this section may be terminated upon two months' notice in writing by a state employee to the appropriate company, association, or organization and to the appropriate payroll clerk or other appropriate officials as specified by the state comptroller."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On motion of Senator Parsons, said substitute was laid on the table.

Senator Parsons then offered the following substitute for the Bill, SB 274, to-wit:

SUBSTITUTE FOR SB 274

**A BILL
TO BE ENTITLED
AN ACT**

To provide for a requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-1-4.3 of the Code of Alabama 1975, as amended, is amended to read as follows:

" 36-1-4.3.

"The state comptroller shall adopt statewide policies which provide for deductions from the salaries of state employees or groups of state employees whenever a request is presented to the state comptroller by a group of participating state employees equal in number to at least ~~five percent of all state employees;~~ 200 provided, however, that deductions ~~that are already~~ being made as of April 23, 1985, shall continue to be made. ~~Such~~ The deductions shall be made at least monthly and shall be remitted to the appropriate company, association, or organization as specified by the employees. The deductions may be made for membership dues, and voluntary contributions, and group insurance premiums. Any deduction provided under the provisions of this section may be terminated upon two months' notice in writing by a state employee to the appropriate company, association, or organization and to the appropriate payroll clerk or other appropriate officials as specified by the state comptroller."

Section 2. The state comptroller may, at his discretion, collect from the deductions withheld a cost of administration fee not to exceed one percent of the total deduction collected.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its

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passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Foshee, Ghee, Hilliard, Langford, Little, Mitchem, Owens, Parsons, Preuitt, and Sanders -20

Nays:

- 0

Senator Bailey offered the following amendment to the Bill, SB 274, as amended by the substitute, to-wit:

AMENDMENT TO SB 274, AS AMENDED

Amend Senate Bill No. 274, as amended, on Page 2, Line 6, as follows:

strike "group"

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Corbett, Denton, Dial, Dixon, Ellis, Hale, Hilliard, Little, Mitchem, Parsons, Preuitt, Sanders, Smith (J), and Waggoner -18

Nays:

- 0

And said Bill, SB 274, as amended by the substitute, as amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Figures, Ghee, Hale, Langford, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), and Waggoner -21

Nays:

- 0

RESOLUTION

Senators Barron, Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 66. POSTPONEMENT OF STATE TELEPHONE SERVICE REDUCTION IMPLEMENTATION.

BE IT RESOLVED BY THE SENATE OF ALABAMA, THE HOUSE OF REPRESENTATIVES CONCURRING, That the Senate and House of Representatives request a postponement of state telephone service reduction until March 31, 1992, in order for the Legislature to properly consider adequate funding for the purpose of continuing the current level of service.

AND BE IT FURTHER RESOLVED, That a copy of this resolution be delivered immediately to the Director of Finance.

On motion of Senator Barron, the Rules were suspended and the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Mitchem, B.I.R., SB 365, adopted.

Yeas 17 Nays 1

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Ghee, Hale, Little, Mitchell, Mitchem, Owens, Smith (J), and Waggoner

-17

Nay: Senator Amari

- 1

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 365. To amend Section 13A-5-40, Code of Alabama 1975, to include within the list of crimes punishable as capital offenses: murder

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when the victim is under fourteen years of age; murder in which the victim is killed while in a dwelling by a deadly weapon fired from outside that dwelling; murder in which the victim is killed while in a motor vehicle by a deadly weapon fired from outside that motor vehicle; and murder in which the victim is killed by a deadly weapon fired from a motor vehicle.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 19 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lindsey, Little, Mitchell, Mitchem, Owens, Smith (B), Smith (J), and Waggoner
-19

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Smith (J), B.I.R., SB 388, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Ghee, Hale, Lipscomb, Mitchem, Owens, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner
-19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 388. To amend Sections 15-25-1 and 15-25-3 of the Code of Alabama 1975, relating to criminal procedure in examining certain child victims and witnesses in criminal prosecutions involving sexual offenses perpetrated against and sexual exploitation of children under 16 years of age, to permit leading questions of child victims and witnesses under age 10, at the discretion of the court; and allowing a child victim of physical abuse to be a competent witness to testify without prior qualification.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bolling, Campbell, deGraffenried,
Denton, Ellis, Ghee, Hale, Langford, Little, Mitchell, Mitchem, Owens,
Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -21

Nays:

- 0

RESOLUTIONS

Senator Mitchem offered the following Senate Resolution, to-wit:

**SR 67. DESIGNATING MAY 1992 AS MOTORCYCLE
SAFETY AND AWARENESS MONTH IN ALABAMA.**

On motion of Senator Mitchem, the Resolution was adopted by the Senate.

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 68. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the seventeenth legislative day of the 1992 Regular Session only:

	Page
S. 190	22
Acts of Alabama, 1991 Reg. and 1st Sp. Sessions, codified	
S. 72	15
Health ed. programs in schools, to incl. sex or illegal drug use	
S. 233	23
College tuition, auth. to be paid by st. for cert. students in financial need	
S. 359	85
Selma University, bd. of trustees, membs. incr.	
S. 213	25
Alabama Insurance Bd. estab., negotiate group health ins.	

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coverage for individuals, approp.

S. 375 Oil and Gas Bd., oil and gas storage, auth. to regulate	83
--	----

S. 275 Firefighters, employee organization, gov. body to respond in writing to proposals, Sec. 11-43-143 am'd.	24
--	----

S. 78 Motor Vehicle Safety Responsibility Act, expenses of administration, repealed, Sec. 32-7-39 repealed	5
--	---

Senator Corbett offered the following substitute for the Resolution, SR 68, to-wit:

SUBSTITUTE FOR SR 68

SR 68. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the seventeenth legislative day of the 1992 Regular Session only:

	Page
S. 190 Acts of Alabama, 1991 Reg. and 1st Sp. Sessions, codified	22
S. 233 College tuition, auth. to be paid by st. for cert. students in financial need	23
S. 359 Selma University, bd. of trustees, membs. incr.	85
S. 213 Alabama Insurance Bd. estab., negotiate group health ins. coverage for individuals, approp.	25
S. 375 Oil and Gas Bd., oil and gas storage, auth. to regulate	83
S. 275 Firefighters, employee organization, gov. body to respond in	24

writing to proposals, Sec. 11-43-143 am'd.

S. 78

5

Motor Vehicle Safety Responsibility Act, expenses of
administration, repealed, Sec. 32-7-39 repealed

On motion of Senator Mitchell, said substitute was laid on the
table.

Yeas 18 Nays 5

Yeas:

Senators:

Amari, Bailey, Bolling, Denton, Dial, Dixon, Ellis, Ghee, Hale,
Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B),
Smith (J), and Waggoner -18

Nays:

Senators:

Campbell, Corbett, Langford, Lindsey, and Sanders - 5

And on motion of Senator Mitchell, the Resolution, SR 68, was
then adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 190, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, deGraffenried, Denton, Dixon, Ellis,
Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons,
Smith (B), and Smith (J) -18

Nays:

- 0

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special,
paramount, and continuing order of business for today, the first of which
was the Bill:

S. 190. To adopt and incorporate into the Code of Alabama
1975 those general and permanent laws of the state enacted during the

1991 Regular and First Special Sessions of the Legislature, as contained in the 1991 Cumulative Supplement to certain volumes of the Code and in the 1991 Replacement Volumes 18, 19, 19A, 22, and 22A of the Code; and to make corrections in certain volumes of the cumulative supplement and the 1991 Replacement Volume 18.

And said Bill, SB 190, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Ellis, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Smith (B), and Smith (J) -20

Nays:

- 0

RESOLUTION

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 69. MOURNING THE DEATH OF TALLULAH PITMAN OF MOBILE, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama records the death of Tallulah Pitman of Mobile, Alabama, on February 26, 1992; and

WHEREAS, Mrs. Pitman in 1945 was honored as the first "First Lady of Mobile" by the City Council of the Beta Sigma Phi Sorority, and was commended upon her retirement in 1966 for her service as associate director of Community Chest and Council of Mobile County, a planning arm for the United Fund known today as the Planning Council for Human Services; and

WHEREAS, a very prominent member of the Mobile community, Mrs. Pitman contributed significantly toward the good and well-being of her fellow citizens through her energetic devotion to numerous civic and charitable endeavors; and

WHEREAS, among her many accomplishments were the establishment of the first dental hospital for children in Mobile, the organization of the Visiting Nurses Association, and her instrumental

role in a study that resulted in the creation of the Gordon Smith Center; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Tallulah Pitman of Mobile, Alabama, and extend our deepest and most heartfelt sympathy to her son, Dr. John A. Pitman; to her four grandchildren; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 177. To make appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1993.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 177 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 55. DESIGNATING CALENDAR YEAR 1992 AS THE "YEAR OF CLEAN WATER," AND OCTOBER 1992 AS "CLEAN WATER MONTH" IN ALABAMA.

Also:

HJR 123. COMMENDING BOBBIE G. MCDOWELL FOR EXTRAORDINARY SERVICE TO THE DEMOCRATIC PARTY AND SUPPORT OF WOMEN'S ISSUES.

Also:

HJR 124. COMMENDING RUTH JOHNSON OWENS FOR OUTSTANDING SUPPORT AND CONTRIBUTIONS TO THE DEMOCRATIC PARTY AND TO WOMEN'S ISSUES.

Also:

HJR 146. RELATING TO DR. MARTIN LUTHER KING'S CONTRIBUTIONS AS RECOGNIZED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DOTHAN, AND NAMING THE "MARTIN LUTHER KING, JR. BOULEVARD," IN ACCORDANCE WITH THE BOARD'S REQUEST.

Also:

HJR 152. RECOGNIZING OLIN CORPORATION UPON ITS 100TH ANNIVERSARY CELEBRATION.

Also:

HJR 155. INVITING JUDGE RAY CORNS TO ADDRESS A JOINT SESSION OF THE LEGISLATURE OF ALABAMA.

Also:

HJR 157. URGING CONGRESS TO NAME THE LAKE NOW KNOWN AS "UPPER BIG BEAR LAKE" IN HONOR OF U. S. CONGRESSMAN TOM BEVIL OF ALABAMA.

Also:

HJR 169. COMMEMORATING THE DEDICATION OF THE VIETNAM VETERANS MEMORIAL IN WASHINGTON, D. C.

Also:

HJR 170. COMMENDING GWENDOLYN EUGENIA PRICHARD LEWIS OF CITRONELLE, ALABAMA.

Also:

HJR 173. COMMENDING FILM PRODUCER JOHN WILSON.

Also:

HJR 174. COMMENDING FILM PRODUCER BOB SOLO, AND WELCOMING HIM BACK TO ALABAMA AND THE GREATER SELMA AREA.

Also:

HJR 175. MOURNING THE DEATH OF FORREST C. WILSON OF MOBILE, ALABAMA.

Also:

HJR 178. COMMENDING KYLE SEWELL OF ALABASTER, ALABAMA, SHELBY COUNTY'S EMS HONOREE OF THE YEAR.

Also:

HJR 180. INVITING PATRICK TAYLOR OF NEW ORLEANS, LOUISIANA, TO ADDRESS THE LEGISLATURE.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

BUDGET ISOLATION RESOLUTION

Senator Mitchell, B.I.R., SB 72, adopted.

Yeas 21 Nays 1

Yeas:

Senators:

Bailey, Bennett, Bolling, Dial, Dixon, Ellis, Figures, Foshee, Ghee,

Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons,
Preuitt, Sanders, Smith (B), and Waggoner -21

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 72. To require public schools in Alabama to emphasize responsible sexual behavior and prevention of illegal drug use in those programs and curriculum that include instruction on such subjects; to specify the minimum contents to be included in that instruction; and to outline conduct that is improper or unlawful for school-age children.

was taken up.

Senator Bedsole offered the following substitute for the Bill, SB 72, to-wit:

SUBSTITUTE FOR SB 72

**A BILL
TO BE ENTITLED
AN ACT**

To require public schools in Alabama to emphasize responsible sexual behavior and prevention of illegal drug use in those programs and curriculum that include instruction on such subjects; to specify the minimum contents to be included in that instruction; and to outline conduct that is improper or unlawful for school-age children.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Legislature finds that:

(1) Pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing school; a greater likelihood that an adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency.

(2) Drug and alcohol abuse diminish the strength and vitality of

the young people of our nation and state; an increasing number of substances, both legal and illegal, are being abused by increasing numbers of school children, even at the grade school level; abuse of any substance causes human behavior that influences many forces, including school, family, church, community, media, and peer groups. Prevention and early intervention in such behavior requires cooperation and coordination involving strategies designed to respond to carefully defined problems in which the education system of the state can play an important role.

(b) The purposes of this act are:

(1) To find effective means, within the context of the school environment, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from teachers, parents, and other family members, and to promote self discipline and other prudent approaches to the problem of premarital sexual relations of adolescents, including adolescent pregnancy.

(2) To encourage the prevention of alcohol and drug abuse among children in the public schools; to stimulate the development of improved approaches to the prevention of alcohol and drug abuse; to demonstrate the use of such approaches in model educational programs and to evaluate the effectiveness thereof; to disseminate successful approaches and significant information for use in educational programs throughout the public schools; and to provide training programs for school administrators, teachers, and counselors.

Section 2. (a) Any program or curriculum in the public schools in Alabama that includes sex education or the human reproductive process shall, as a minimum, include and emphasize the following:

(1) Abstinence from sexual intercourse is the only completely effective protection against unwanted pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually.

(2) Abstinence from sexual intercourse outside of lawful marriage is the expected social standard for unmarried school-age persons.

(b) Course materials and instruction that relate to sexual education or sexually transmitted diseases should be age-appropriate.

(c) Course materials and instruction that relate to sexual education or sexually transmitted diseases should include all of the following elements:

(1) An emphasis on sexual abstinence as the only completely reliable method of avoiding unwanted teenage pregnancy and sexually transmitted diseases.

(2) An emphasis on the importance of self-control and ethical conduct pertaining to sexual behavior.

(3) Statistics based on the latest medical information that indicate the degree of reliability and unreliability of various forms of contraception, while also emphasizing the increase in protection against pregnancy and protection against sexually transmitted diseases, including HIV and AIDS infection, which is afforded by the use of various contraceptive measures.

(4) Information concerning the laws relating to the financial responsibilities associated with pregnancy, childbirth, and child rearing.

(5) Information concerning the laws prohibiting sexual abuse, the need to report such abuse, and the legal options available to victims of sexual abuse.

(6) Information on how to cope with and rebuff unwanted physical and verbal sexual exploitation by other persons.

(7) Psychologically sound methods of resisting unwanted peer pressure.

(8) An emphasis, in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state.

(9) Comprehensive instruction in parenting skills and responsibilities, including the responsibility to pay child support by non-custodial parents, the penalties for non-payment of child support, and the legal and ethical responsibilities of child care and child rearing.

Section 3. (a) Any program or curriculum in the public schools of Alabama that includes drug education or instructs on the use of drugs or alcohol shall, as a minimum, include the following:

(1) Age-appropriate, developmentally-based drug and alcohol education and prevention programs that address the legal, social, and health consequences of drug and alcohol use and that provide information about effective techniques for resisting peer pressure to use

illicit drugs or alcohol for students in all grades of the public schools from early childhood level through grade 12.

(2) Information conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful and is punishable by fines and imprisonment.

(3) Standards of conduct that are applicable to students and employees in all public schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises, or as part of any activities of the school.

(4) A clear statement that sanctions, consistent with local, state, and federal law, up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by subdivision (3). A description of those sanctions shall be included.

Section 4. Conduct that is illegal under state or federal law, including but not limited to, illegal use or distribution of controlled substances, under-age alcohol use or distribution, sexual intercourse imposed by means of force, or sexual actions which are otherwise illegal, shall not be encouraged or proposed to public school children in such a manner as to indicate that they have a legitimate right to decide or choose illegal conduct.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Which was adopted.

Yeas 21 Nays 6

Yeas:

Senators:

Bedsole, Bennett, Campbell, Corbett, deGraffenried, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchell,

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Mitchem, Parsons, Preuitt, Sanders, Smith (B), and Waggoner -21

Nays:

Senators:

Amari, Barron, Bolling, Dial, Lipscomb, and Owens - 6

And said Bill, SB 72, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 24 Nays 3

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Ellis, Figures, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Waggoner -24

Nays:

Senators:

Corbett, Lindsey, and Sanders - 3

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 109. Relating to the regulation of the home building industry to the licensure and regulation of persons in the home building industry by examination and issuance of licenses; to create the Home Builders Licensure Board and to impose licensing fees and penalties for violations of this act.

Also:

S. 195. Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries, for the fiscal year ending September 30, 1993, to indemnify owners of swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever, and other swine diseases.

Also:

S. 274. To provide for a requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 4. EXTENDING THE TASK FORCE ON CHILDREN'S REHABILITATION SERVICES AS RECOMMENDED IN THE REPORT FILED JULY 29, 1991 BY THE JOINT LEGISLATIVE COMMITTEE ON THE CRISIS IN CHILDREN'S REHABILITATION SERVICES.

Also:

SJR 55. INVITING JUDGE RAY CORNS TO ADDRESS A JOINT SESSION OF THE LEGISLATURE OF ALABAMA.

Also:

SJR 56. CONFERRING UPON JAMES JOHNSTON HICKS OF BIRMINGHAM THE DESIGNATION OF "DISTINGUISHED PROFESSOR EMERITUS OF HIGHER EDUCATION" IN ALABAMA.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed

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the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 116. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

GREG PAPPAS,
Clerk.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SJR 4

SJR 55

SJR 56

Delivered to the Governor, March 19, 1992, at 4:26 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 4:40 P.M., on motion of Senator Corbett, in accordance with Motion heretofore adopted, the Senate adjourned until Tuesday, March 24, 1992, at 2 o'clock P.M.

Yeas 14 Nays 12

Yeas:

Senators:

Bailey, Bennett, Bolling, Corbett, Dixon, Figures, Ghee, Langford,
Mitchell, Mitchem, Parsons, Sanders, Smith (B), and Smith (J) -14

Nays:

Senators:

Amari, Barron, Bedsole, deGraffenried, Dial, Ellis, Foshee, Hale,
Lipscomb, Little, Preuitt, and Waggoner -12

EIGHTEENTH LEGISLATIVE DAY

TUESDAY, MARCH 24, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Neil McDavid, Minister, Capitol Heights United Methodist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Rachel Wesson, Bear Elementary School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Seventeenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

RESOLUTION

Senators Lindsey and Parsons requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 70. REQUESTING INFORMATION FROM CERTAIN STATE AGENCIES ON THE POLICY AND PRACTICE REGARDING THE USE OF PROPERTY RECOVERY AGENTS AND CERTAIN ACTIVITIES RELATED THERETO.

WHEREAS, there has been brought to the attention of the Legislature that certain individuals and entities, known as property recovery agents, are working in the state as "bounty hunters"; and

WHEREAS, these agents have been offering their services to state agencies and/or institutions; and

WHEREAS, certain state agencies and/or institutions have accepted the services of these agents; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the State Finance Director and the State Comptroller are respectfully requested to make a written report to both houses of the Legislature within ten calendar days of the final adoption of this resolution regarding:

(1) The state policy on releasing names and amounts of uncashed warrants and/or unclaimed property.

(2) The number and amounts of uncashed warrants outstanding for more than one year and the number and amounts of these warrants payable to state agencies.

(3) The state policy on issuing duplicate warrants.

(4) The number of powers of attorney presented to the State Comptroller by these agents for issuance of duplicate warrants and the number and amounts of duplicate warrants issued thereto during the last 18 months, the total number and amounts of duplicate warrants issued, and the number and amounts of duplicate warrants issued to state agencies and institutions.

(5) The details of the issuance of a duplicate warrant for \$325,621.89 to the University of Alabama.

(6) Any ideas or suggested legislation to improve internal controls of state agencies and institutions and to protect the state's interests and resources.

BE IT FURTHER RESOLVED, That the State Auditor is respectfully requested to make a written report to the Legislature within ten calender days of the final adoption of this resolution regarding:

(1) The state's practice of issuing duplicate warrants upon request of these agents.

(2) The extent to which state agencies and institutions use these agents.

(3) The details of the issuance of a duplicate warrant for \$325,621.89 to the University of Alabama.

(4) Any ideas or suggested legislation to improve internal controls of state agencies and institutions and to protect the state's interests and resources.

BE IT FURTHER RESOLVED, That the University of Alabama is respectfully directed to make a written report to both houses of the Legislature within ten calender days of the final adoption of this resolution regarding:

(1) The University policy on the use of these agents for collection of "unclaimed" assets belonging to the University.

(2) The University's actual use of these agents during the last 18 months, including the number of times used, the amounts received, the amounts of fees paid, and the number of outstanding agreements and terms of such agreements.

(3) A full accounting of the use of the services of Full Circle

Services of Tulsa and Coastland Group, and in particular a full accounting of their identification of assets/outstanding warrants from the State of Alabama to the University including activities of University personnel and their contacts with either of the above firms.

BE IT FURTHER RESOLVED, That the Secretary of the Senate shall notify the State Finance Director, the State Comptroller, the State Auditor, and the Chancellor of the University of Alabama of the passage of this resolution and of the urgency of this request.

Which was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 57. MOURNING THE DEATH OF AARON ARONOV OF MONTGOMERY, ALABAMA.

Also:

SJR 59. URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION IMPOSING TARIFFS AND SURCHARGES ON PRODUCTS, GOODS, AND EQUIPMENT MANUFACTURED IN COUNTRIES CHARGING TARIFFS ON GOODS, PRODUCTS, AND EQUIPMENT EXPORTED FROM THE UNITED STATES.

GREG PAPPAS,
Clerk.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 72. To require public schools in Alabama to emphasize responsible sexual behavior and prevention of illegal drug use in those programs and curriculum that include instruction on such subjects; to specify the minimum contents to be included in that instruction; and to

outline conduct that is improper or unlawful for school-age children.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 116. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 57. MOURNING THE DEATH OF AARON ARONOV OF MONTGOMERY, ALABAMA.

Also:

SJR 59. URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION IMPOSING TARIFFS AND SURCHARGES

**ON PRODUCTS, GOODS, AND EQUIPMENT MANUFACTURED
IN COUNTRIES CHARGING TARIFFS ON GOODS, PRODUCTS,
AND EQUIPMENT EXPORTED FROM THE UNITED STATES.**

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Lindsey (With Notice and Proof):

S. 517. Relating to Choctaw County; to ratify, confirm, and validate ab initio all water, sewer, gas, or electric systems in Choctaw County acquired by boards organized under Article 9, Chapter 50, Title 11 of the Code of Alabama 1975, as amended; and to give retroactive effect.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 517, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bailey:

S. 518. To amend Section 27-44-3, Code of Alabama 1975, relating to the scope of coverage provided by the Alabama Life and Disability Insurance Guaranty Association, to restrict the coverage by the

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association to residents of the State of Alabama except as specified herein.

**Committee on Banking
and Insurance**

By Senator Little:

S. 519. To regulate advertisements and solicitation by veterinarians to the general public through the rulemaking authority granted to the Alabama State Board of Veterinary Medical Examiners.

**Committee on Agriculture,
Conservation, and Forestry**

By Senators deGraffenried, Parsons, Little, Smith (B), Figures, Owens, Smith (J), Waggoner, and Campbell:

S. 520. To provide for the effect of reliance by creditors on a written opinion, regulation, or similar notice of the Superintendent of Banks as administrator of Chapter 19, Title 5, Code of Alabama 1975.

**Committee on Banking
and Insurance**

By Senator Bailey:

S. 521. To amend Section 11-3-6, Code of Alabama 1975, relating to vacancies on county commissions, to provide further for filling vacancies and for the term of persons appointed to fill vacancies.

**Committee on Governmental
Affairs/Local Government**

By Senator Mitchell:

S. 522. To regulate and provide procedures for personnel records of public school employees.

**Committee on Governmental
Affairs/Local Government**

By Senator Bolling:

S. 523. To provide for certain crimes and offenses relating to

animals and research, agricultural, or educational facilities relating to animals; and to provide penalties, restitution, and injunctive relief.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator deGraffenried (With Notice and Proof):

S. 524. Relating to the sheriff's compensation and expense allowances paid, in good faith, by the Tuscaloosa County commission or other county officer pursuant to Act Numbers 79-719 and 79-720 of the 1979 Regular Session (Acts 1979, p. 1274), which acts provided for such expense allowances; ratifying, validating and confirming the actions of the county commission and any other county officer retroactively to August 8, 1979, and continuing thereafter; relieving any liability for repayment by such officials; providing that the provisions of this act shall be construed in *pari materia* with any other laws relating to compensation or expense allowances or salary for the sheriff and specifically with the provisions of Act No. 87-454, S. 570 of the 1987 Regular Session (Act 1987, p. 683).

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 524, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Windom:

S. 525. To permit certain public entities to offset, hedge, or reduce interest rate, investment, payment, and similar risks in connection with their proper activities by entering into "swap agreements" and provide for conditions, requirements, and definitions applicable thereto.

Committee on Banking
and Insurance

By Senator Barron:

S. 526. To amend Section 39-7-14, Code of Alabama 1975, relating to boards of trustees of municipal improvement authorities; and to provide that those boards shall consist of five members that are quali-

fied electors residing in the area serviced by the authority.

Select Committee on
Fiscal Responsibility

By Senators Denton, Bennett, Dixon, Smith (J), Dial, Windom, Amari, Mitchell, Floyd, Parsons, Hale, Preuitt, Bedsole, Lipscomb, Bolling, Horn, Waggoner, Ellis, Foshee, Ghee, Campbell, deGraffenried, Little, Wilson, Bailey, Smith (B), Owens, Sanders, and Figures:

S. 527. To limit campaign contributions to candidates for the Legislature and any statewide offices and to prescribe penalties for violations.

Committee on Constitution
and Elections

By Senator deGraffenried:

S. 528. Relating to alcoholic beverages; and to be known as the Alabama Alcoholic Beverage Control Code; to provide for an Alcoholic Beverage Control Board; to regulate and control transactions in alcoholic beverages which take place in Alabama and to prohibit such transactions except by and under the control of the board; to restrict the effect of the code to wet counties and wet municipalities; to provide for the administration, functions, powers and regulations of, and for receipt, disposition and use of profits of the board; to provide for the appointment, term of office, suspension, removal, compensation, costs and expenses of such board and its members, officers, agents and employees, and its administrator; to provide for the management and operation of and sales by state liquor stores; to provide for and fund an inventory fund for the board; to create a cost of evidence fund and provide for use thereof; to authorize licensing to engage in alcoholic beverage transactions, and provide for regulation for, and issuance and renewal of, and regulation of the grant of licenses; to impose and levy state, and authorize and limit county and municipal, filing and license fees for engaging in manufacture, import, warehousing, wholesale or retail sale of or transactions in alcoholic beverages; to proscribe unlawful acts and offenses and provide for punishment therefor; to prescribe penalties for any violation of the code or any rule or regulation promulgated by the board and to provide punishment and alternate punishment therefor, including suspension or revocation of licenses and fines against licensees; to provide for non-taxable sales; to provide for refund on overpayment or erroneous payment on taxes and licenses to the board or

any county or municipality; to provide penalties for failure to pay taxes collected and for execution for unpaid taxes and penalties; to provide for identification of certain alcoholic beverages and penalties for possession of unidentified alcoholic beverages and for the counterfeit or reuse of Alabama identification; to provide for licensee reports, records and inspections; to provide for confiscation of unidentified alcoholic beverages and vehicles used for transportation of unidentified alcoholic beverages and for the procedure for confiscation; to provide for an election to determine classification of county as wet or dry county; to provide for special method referendum to determine classification of county as wet or dry county and to impose conditions governing sales under special method; to provide for municipal option election to determine classification of municipalities as wet or dry municipalities; to provide for the separation of business interests and exclusive sales territories; to provide for regulation of advertising alcoholic beverages; to define terms and to establish a legal drinking age; to repeal Chapters 1, 2, 2A, 3A, 6, and 8, and Chapter 3 except Sections 28-3-184, 28-3-190, 28-3-200 to 205, inclusive, 28-3-280, 28-3-281, and 28-3-284, and Chapter 7 except Section 28-7-16, Title 28, Code of Alabama 1975, as amended, and all other conflicting or inconsistent laws or parts of laws, but shall not repeal or amend Title 28, Chapter 9, Chapter 10, Sections 6-5-70, or 6-5-71, Code of Alabama 1975, as amended, Act No. 90-177, or Act No. 91-604; to amend Title 28, Chapter 4, Code of Alabama 1975, to make the same consistent with the provisions of this code; and to provide that the code shall become effective on October 1, 1992.

Committee on Public Welfare

By Senator Ghee:

S. 529. To amend Sections 22-24-1, 22-24-4, 22-24-5, and 22-24-8 of the Code of Alabama 1975, relating to water well standards, so as to provide further for the licensing of well drillers and to repeal Section 22-24-12 of the Code of Alabama 1975, which exempts Baldwin County from the chapter.

Committee on Industrial
Development and Expansion

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 182. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Thursday, March 19, 1992, they adjourn to meet again on Tuesday, March 24, 1992.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 182, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 203. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Tuesday, March 24, 1992, they adjourn to meet again on Thursday, March 26, 1992, and when they adjourn on Thursday, March 26, 1992, they adjourn to meet again on Tuesday, April 7, 1992.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 203, set out in the foregoing Message from the House,

was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Cosby, Hooper, and Morrow:

HJR 200. ESTABLISHING A RECYCLING INDUSTRY AND MARKET DEVELOPMENT COUNCIL.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is established a Recycling Industry and Market Development Council to assist in the development of markets in this state for recovered materials and products with recycled content.

The members of the council shall be appointed not later than 90 days after this act is effective.

The council shall consist of fifteen appointed members, as follows:

(1) One member representing the paper industry appointed by the Speaker of the House of Representatives.

(2) One member representing the oil industry appointed by the Speaker of the House of Representatives.

(3) One member representing county governments, who shall be appointed by the Speaker of the House of Representatives.

(4) One member representing the solid waste collection and disposal industry appointed by the Speaker of the House of Representatives.

(5) One member representing the recycling industry appointed by the Lieutenant Governor.

(6) One member representing the aluminum industry appointed by the Speaker of the House of Representatives.

(7) One member representing the steel can and steel scrap re-

cycling industry appointed by the Speaker of the House of Representatives.

(8) One member representing municipalities appointed by the Lieutenant Governor.

(9) One member representing the glass industry appointed by the Lieutenant Governor.

(10) One member representing the plastics industry appointed by the Lieutenant Governor.

(11) One member representing higher education research institutions appointed by the Lieutenant Governor.

(12) One member representing the tire industry appointed by the Lieutenant Governor.

(13) One member representing the hazardous waste recycling industry appointed by the Lieutenant Governor.

(14) One member representing the general public appointed by the Chair of the House Standing Committee on Commerce, Transportation, and Utilities.

(15) One member representing the general public appointed by the Chair of the Senate Standing Committee on Commerce, Transportation and Utilities.

Each member of the council shall serve a two-year term beginning on the date of appointment until a successor is qualified and appointed.

The council shall select a chair and vice-chair. The council shall adopt operating procedures and meet on the call of the chair or of a majority of the members. A majority of the members constitutes a quorum to do business.

The council may apply for and receive grants, contributions, or donations from any source, including the state and federal government, in order to carry out the duties and responsibilities of the council as provided in this act.

Not later than the first day of the next regular session of the Alabama Legislature following the appointment of the council, the council shall provide to the Governor and to the Legislature an initial report

which, at a minimum, shall include:

(1) A description and analysis of this state's existing recycling industry.

(2) An analysis of the projected long-term capacity of existing markets to absorb materials generated by source separation, recovery, or recycling programs.

(3) An analysis of potential markets in this state, in other states, or in foreign countries for recovered materials and products with recycled content from this state.

(4) An analysis of institutional, economic, and technical barriers to the use of recovered materials and products with recycled content.

(5) Recommendations for actions which may be taken to increase demand for source separated, recovered, or recycled materials or products.

(6) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to consume or export recovered materials and products with recycled content.

(7) An analysis of the compatibility of recycling with waste treatment or disposal methods and recommendations on the feasibility of the implementation of mechanisms for cooperative marketing for recyclable materials.

(8) Recommendations on categories of materials which should be recovered, given existing and potential markets for those materials.

(9) A study of methods and cost effectiveness of source separation and recycling of recovered materials.

(10) A study of packaging reduction.

(11) A study of the design of products at the primary stage of development to promote recyclability.

Following its initial report, the council shall submit to the Governor and to the Legislature by the end of each calendar year an annual report on recycling activities in this state which, at a minimum, shall include:

(1) Revisions which the council determines necessary to its initial report.

(2) A description and analysis of the amounts and types of waste materials recovered or recycled in this state during the preceding year.

(3) Recommendations regarding materials which should be added to or deleted from source separation, recovery, and recycling programs.

(4) Any other recommendation, including tax incentives, to facilitate the development of markets for recovered materials or products in this state.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 200, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Rockhold:

**HJR 199. MOURNING THE DEATH OF OTIS MERRITT
WARD OF MOBILE, ALABAMA.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Bedsole, the Rules were suspended and the Resolution, HJR 199, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Ford:

HJR 202. DESIGNATING MAY 22, 1992, AS "UNITED STEEL WORKERS OF AMERICA LOCAL 2176 DAY" IN ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 202, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 58. NAMING ALL OF HIGHWAY 14 IN DALLAS, PERRY, HALE, GREENE, AND PICKENS COUNTIES, ALABAMA, THE "DR. MARTIN LUTHER KING, JR., HIGHWAY."

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate non-concurred in the following House amendment to the Resolution, SJR 58, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SJR 58

Amend SJR 58 on page 1, line 24 after the word Highway, Add the following: After April 10, 1992, Highway 14 in Pickens County will be named the "McCrary" Memorial Highway in memory of George Washington's Life guard day

All other lines will be numbered accordingly.

and requested a Committee on Conference.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate, Senators Sanders, Wilson, and Figures.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Campbell:

H. 392. Relating to certain fishing licenses of the Department of Conservation and Natural Resources; to require a "saltwater fishing license" for certain persons fishing below a certain defined line and authorize the costs and fees associated therewith; to provide for certain exceptions; to amend Section 9-11-53, Code of Alabama 1975, relating to a certain freshwater fishing license, so as to further describe where it shall be required and increase the cost thereof; to delete certain provisions relating to distribution of certain license fees to the Marine Resources Division; to further prescribe certain penalties; and to provide for the sale of both licenses on a combination basis; and to provide for a reciprocal agreement between the State of Alabama Department of Conservation and Natural Resources and the State of Florida exempting persons 65 years of age or older from fishing and hunting license requirements.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 392 - to the Committee on Agriculture, Conservation, and Forestry

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Morrow (With Notice and Proof):

H. 548. Relating to Franklin County; to provide for the working days and office hours of the board of registrars for the registration and reidentification of voters.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 548, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Holladay (With Notice and Proof):

H. 552. Providing for a board of education for the City of Pell City, Alabama, to be elected by the qualified electors of said city; providing that the members of such board shall be elected from defined school districts; providing for the terms of office, qualifications and compensation of such members; prescribing procedures for electing such members and for filling vacancies on such board; providing for board representation for persons not residing within a specific school district; providing certain immunity for such board members; providing for financial audits of the records of such board; and providing that this act shall become effective only upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected school board for the City of Pell City.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 552, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 548 and 552 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. McClain, Barnes, Payne, Carns, Hawkins, Biddle, Petelos, Gaines, Morton, Rogers (J), McDowell, Perdue, Spratt, Newton (D), and Sanderson:

H. 340. To create and establish the Alabama School of Fine Arts to be governed by a board of trustees.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 340 - to the Committee on Education

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Hooper, Sanderson, Williams, Rogers (J), Flowers, Barnes, Penry, Cosby, Knight, Harper, Hawkins, Carns, Zoghby, Kvalheim, Gaston, Cagle, Hogan, Crow, Gullatt, Gaines, Willis, McKee, Walker, Mikell, Curry, Clark (J), Petelos, Millican, Hill, and McClain:

H. 361. To establish a Recycling Industry and Market Development Council to assist in the development of markets for recovered materials and products with recycled content in this state and to provide for the function, duties, and membership of the council.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 361 - to the Committee on Agriculture, Conservation, and Forestry

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Holladay:

H. 555. Proposing an amendment to the Constitution of Alabama of 1901, providing for the election of the members of the board of education in the City of Pell City, Alabama.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 555 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Turner (With Notice and Proof):

H. 20. Relating to Mobile County; providing that the Mobile

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county commission shall make an annual appropriation to the Mobile County School Board.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 20, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Venable (With Notice and Proof):

H. 333. Relating to Elmore County; providing further for the compensation of the sheriff.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 333, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 20 - to the Committee on Local Legislation No. 3

HB 333 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 273. To limit the employment of additional state personnel

and the purchase or lease of automotive vehicles for fiscal year 1991-92.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 273 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Clay (With Notice and Proof):

H. 580. Relating to Bullock County; to provide for an increase in the salaries of clerks in the offices of the Judge of Probate, Tax Assessor, and Tax Collector.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 580, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Dolbare (With Notice and Proof):

H. 602. Relating to Washington County; to alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Chatom in Washington County, Alabama.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 602, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 580 and 602 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 195. To make an appropriation from the State General Fund to the Commission on Aging for the Care Assurance System for the Aging and Homebound for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 195 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 220. To make an appropriation from the State General Fund to the Shoals Entrepreneurial Center for the fiscal year ending September

30, 1993 and to require an operations plan and audited financial statement prior to the release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 220 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 190. To make an appropriation from the State General Fund to the America's Young Woman of the Year Program for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 190 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 445. To appropriate from the Shipping Point Inspection fund for the fiscal year ending September 30, 1992, the sum of \$250,000 for use by the Department of Agriculture and Industries.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 445 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 448. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to provide appropriations to implement the provisions of this act; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Mes-

sage from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 448 - to the Committee on Banking and Insurance

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 199. To make an appropriation from the State General Fund to the Coalition Against Domestic Violence for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 199 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 222. To make an appropriation from the State General Fund to the Alabama Network of Children's Advocacy Centers, Inc. for the fiscal year ending September 30, 1993 and to require operations plans, and audited financial statements from those Alabama Child Advocacy Centers certified prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 222 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 215. To make an appropriation from the State General Fund to the Council for Parenting and Protecting Children for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 215 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 217. To make an appropriation from the State General Fund to the Alabama Travel Council for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial state-

ment prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 217 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 216. To make an appropriation from the State General Fund to the Retired Senior Volunteer Program for the fiscal year ending September 30, 1993 and to require an operations plan prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 216 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 449. To appropriate from the agricultural fund for the fiscal

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year ending September 30, 1992, the sum of \$600,000 for use by the Department of Agriculture and Industries.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 449 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 446. To establish standards for membership in the Alabama Network of Children's Advocacy Centers, Incorporated and making member centers within the state eligible for receiving state funds.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 446 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 210. To make an appropriation from the State General Fund

to the Lighthouse Counseling Center for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 210 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 205. To make an appropriation from the State General Fund to the Elyton Recovery Center for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 205 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

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By Rep. Harper:

H. 189. To make an appropriation from the State General Fund to the Alabama's Young Woman of the Year Program for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 189 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Turner, Zoghby, and Rockhold (With Notice and Proof):

H. 373. Relating to Mobile County; providing for tax reform in the county for public education purposes by: authorizing the governing bodies of the cities of Mobile and Prichard to levy an additional ad valorem tax in the cities as authorized by Amendment No. 373 to the Constitution of Alabama of 1901; authorizing the governing bodies of Mobile and Prichard to redistribute revenue from the collection of one cent of municipal gross receipts tax in Mobile and municipal sales tax in Prichard to the Board of School Commissioners of Mobile County; levying an additional sales and use tax for education in all areas of Mobile County, except within the corporate limits of the cities of Mobile and Prichard; and providing for referendums.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 373, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

*GREG PAPPAS,
Clerk.*

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 373 - to the Committee on Local Legislation No. 3

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner (With Notice and Proof):

H. 22. Relating to Mobile County; to provide for the levy, collection, and distribution of an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county, and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 22, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 22 - to the Committee on Local Legislation No. 3

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and

ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 192. To make an appropriation from the State General Fund to the Beacon House - Jasper for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 192 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Willis, Crow, and Campbell:

H. 631. To propose a constitutional amendment relating to the volunteer fire departments, fire protection, and emergency services in Calhoun County and the levy and collection of additional special ad valorem taxes for the fire protection and emergency services, pursuant to Amendment 425 of the Constitution of 1901.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 631 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Sanderson:

HJR 194. REQUESTING STATE, COUNTY, AND MUNICIPAL LAW ENFORCEMENT AGENCIES TO ENFORCE ALL LAWS PROHIBITING THE SALE OF TOBACCO PRODUCTS TO MINORS.

WHEREAS, the Alabama Legislature recognizes the use of tobacco products by minors; and

WHEREAS, the Alabama Legislature further recognizes that an immediate need exists for closer coordination of all law enforcement efforts to protect the minors by enforcing all laws that prohibit the sale of tobacco products to minors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That all state, county, and municipal law enforcement agencies are requested to enforce all laws prohibiting the sale of tobacco products to minors.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to all state, county, and municipal law enforcement agencies.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 194, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Cagle:

HJR 191. ENDORSING THE ISSUANCE OF CERTAIN PROTECTIVE CLOTHING FOR ALABAMA'S LAW ENFORCEMENT OFFICERS.

WHEREAS, the Alabama Legislature, in concern for the safety of law enforcement personnel throughout the state, endorses the issuance of protective clothing to these fine men and women who daily put their lives on the line to protect the safety and property of all people in the State of Alabama; and

WHEREAS, there are many instances in which physical confrontation occurs between officers of the law and criminals and it is therefore imperative that these officers, at all times, be attired in clothing that provides personal safety and also presents a neat and proper appearance to the general public; and

WHEREAS, for example, there is a no-knot tie, also known as "Bright's Beautiful Safety Tie," designed to give way under two pounds of pressure per inch of velcro, an effective safety measure that prevents the tie from being used by a criminal to choke a police officer; and

WHEREAS, the no-knot tie, as hereinabove described, is a means of protection that should be available to all law enforcement officers required to wear a tie during duty hours.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this no-knot tie be considered as part of the protective clothing for local and state law enforcement officers.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 191, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Reps. Rogers (J), Hooper, McClain, and Rogers (F)

HJR 193. ESTABLISHING THE YOUTH GANG VIOLENCE COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created the Continuing Youth Gang Violence Commission for the purpose of addressing the existing problems and potential problems of youth gangs in and around the state. The commission shall be composed of nine members as follows: the Attorney General, the Speaker of the House, and the Lieutenant Governor shall each appoint one member of the commission; in addition, the District Attorneys of Jefferson County, Madison County, Mobile County, and Montgomery County, the Police Chief of the City of Birmingham, and the Sheriff of Jefferson County, or their designees, shall be members of the commission. The chair of the commission shall be a member of the House of Representatives of the State of Alabama.

BE IT FURTHER RESOLVED, That the duty and function of the commission shall include, but not be limited to, reviewing state and federal laws relating to youth gang violence; proposing state legislation regarding gang violence issues for consideration by the Governor and the Legislature; proposing and implementing educational and prevention programs on gang violence; and supervising all state level initiatives and efforts to eliminate and further prevent youth gang violence. The commission shall seek information and advice from the representatives of agencies and organizations that provide services to youths.

RESOLVED FURTHER, That the commission shall meet at the time and place designated by the chair, who shall be responsible for its administrative and operational functioning and who is empowered to take all actions necessary to keep it functioning efficiently and effectively and shall have, in this regard, all rights and privileges accorded commissions under Alabama regulations and laws. All major programs and initiatives of the commission must be approved by a majority of the membership in actual attendance at the meeting in which such programs and initiatives are decided. The total expenses of the commission shall not exceed five thousand dollars (\$5,000). The Secretary of the Senate and the Clerk of the House shall provide the commission with clerical assistance upon the request of the chair.

FURTHER RESOLVED, That the commission shall submit a

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report of its findings and recommendations by the fifteenth legislative day of the 1993 Regular Session, and shall be dissolved.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The Resolution, HJR 193, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Smith (C) and Knight:

HJR 188. COMMENDING THE UNIVERSITY OF MONTEVALLO ON THE INITIATION OF ITS QUALITY ASSURANCE PROGRAM.

Also:

By Rep. Cosby:

HJR 189. COMMENDING THE JOHN TYLER MORGAN ACADEMY OF SELMA, ALABAMA, FOR ACADEMIC AND ATHLETIC EXCELLENCE.

Also:

By Rep. Williams:

HJR 190. COMMENDING JOHN ROBERT BOOTHE, JR., FOR DISTINGUISHED SERVICE AS INTERIM PRESIDENT OF OPELIKA STATE TECHNICAL COLLEGE.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

On motion of Senator Little, the Rules were suspended and the Resolutions, HJR's 188, 189, and 190, set out in the foregoing Message

from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Harper, Gaston, Rockhold, Kvalheim, Clark (W), Buskey (JE), Kennedy, Penry, Box, and Turner:

HJR 195. COMMENDING WILLIAM J. FULFORD, III, FOR DISTINGUISHED SERVICE DURING OPERATION DESERT STORM.

Also:

By Rep. Harper:

HJR 196. EXPRESSING APPRECIATION TO THE BAYOU LA BATRE CHAMBER OF COMMERCE.

Also:

By Rep. Harper:

HJR 197. HONORING MR. CHARLY FUGIKI AND HIS FIRM, C & C TRANSPACIFIC CORPORATION.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Little, the Rules were suspended and the Resolutions, HJR's 195, 196, and 197, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositaries and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to set aside from the earnings on such obligations two and one-half percent (2.5%) for payment of administrative expenses of the state treasurer; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Senate concurred in and adopted the following House amendment to the Bill, SB 194, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 194

Amend SB 194 on Page 1, lines 19 through 22 after the word "securities," by deleting in their entirety and inserting in lieu thereof the words and to provide appropriations to implement the provisions of this act.

Further amend on Page 2, lines 3 through 5 after the word "securities," by deleting in their entirety and inserting in lieu thereof the words and to provide appropriations to implement the provisions of this act; to

Further amend on Page 2, line 35 after the word "itself." by deleting the word ~~Two~~

Further amend on Page 3 by deleting lines 1 through 5 in their entirety and inserting in lieu thereof a new Section 2 to read as follows and renumbering all subsequent sections accordingly:

"Section 2. In addition to any and all other funds heretofore or hereinafter appropriated to the State Treasurer, there is hereby appropri-

ated from the State General Fund to the State Treasurer, for the fiscal year ending September 30, 1992, the sum of one hundred fifty thousand dollars (\$150,000) or so much thereof as may be necessary and for the fiscal year ending September 30, 1993, the sum of three hundred thousand dollars (\$300,000) or so much thereof as may be necessary. The appropriations provided in this section shall be expended to implement the provisions of this act."

Yeas 26 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, and Windom -26

Nays:

- 0

REPORTS OF COMMITTEES

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Ellis:

S. 262. To amend Section 41-16-51, Code of Alabama 1975, to exempt purchases of computers and wordprocessing hardware and custom software from competitive bidding requirements.

By Senator Dixon:

S. 395. To provide further for the inventory of certain state property and to amend Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975.

By Rep. Hammett:

H. 50. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and tele-

vision reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator Dial (With Amendments):

S. 470. To authorize the creation and incorporation of the Public Gas Authority of Alabama as a public corporation of the State of Alabama; to authorize the authority to acquire, construct, improve, equip, alter, repair, operate, and maintain projects and systems embracing the acquisition, production, storage, treatment, liquefaction, vaporization, transmission, purchase, sale, exchange or interchange of gas and to acquire, construct, and equip all property and things necessary or convenient for the purposes of such projects and systems and the acquisition, construction, maintenance, and operation of projects and systems; to authorize the authority and certain municipal and public corporations which own gas distribution systems to execute contracts for the use of the authority's projects and systems and the services thereof and for the purchase of gas therefrom for resale through the gas distribution systems owned by the municipal and public corporations in this state and to enforce the performance thereof; to authorize the authority to issue its bonds, bond anticipation notes, and notes payable from the revenues and assets of the authority in order to provide funds sufficient to carry out any of its corporate purposes and powers; to specify the extent of review and regulation by the Alabama Public Service Commission concerning the authority; to exempt the authority from the operation of the Alabama Sunset Law of 1976 and from the competitive bid laws; to provide an effective date; and to provide for the repeal of conflicting laws.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Dial, Bennett, Hale, and Bedsole (With Substitute):

S. 235. To establish a comprehensive statewide program for

solid waste management to be coordinated by the Department of Environmental Management; to amend section 22-27-2, Code of Alabama 1975, to require further permitting of solid waste management facilities; to amend section 22-27-3, Code of Alabama 1975, to require county commissions and municipalities to make available collection/management facilities or services; to amend section 22-27-4, Code of Alabama 1975, to prohibit further unauthorized dumping; to amend section 22-27-5, Code of Alabama 1975, to provide further for the fees and contracts for collection/management of solid wastes; to require the department to establish requirements for solid waste management facilities and permits; to amend section 22-27-6, Code of Alabama 1975, to eliminate certain exceptions; to amend section 22-27-7, Code of Alabama 1975, clarifying the responsibilities of the Health Department and the Department of Environmental Management; to provide for penalties and other remedies for certain violations and to provide for enforcement; to provide further for certain powers and duties of the department; to require proof of financial responsibility prior to permitting; to establish a recycling market development council and provide for its appointment; and to establish a solid waste management trust fund, and to change the name of the Act to the Solid Waste Management Act.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Lindsey (With Notice and Proof):

S. 511. Relating to Clarke County government, to change the composition of the Clarke County Commission to provide that the Clarke County Commission shall consist of five members elected from five single-member districts, with the chairmanship to rotate among said five members; and said chairman shall preside at all meetings and shall be entitled to vote on all matters coming before the County Commission; to provide for the terms of said Commissioners, and to require that the members of the commission shall reside within the boundaries of each district; and repealing all conflicting laws.

By Senator Lindsey (With Notice and Proof):

S. 512. Relating to Clarke County; providing for the county board of education to consist of five members elected from five single-member school board districts; providing for the division of Clarke County into five single-member county school board districts;

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providing for the terms of office; and repealing all conflicting laws.

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Reps. Cagle, Fuller, Drake, Crow, Hooper, Hogan, Rogers (F), White, Walker, Poole, Melton, Buskey (JL), Barnes, Dolbare, Buskey (JE), Smith (R), Cullins, Laird, Burke, Morrow, Sanderson, Curry, Anderson, Bowling, Layson, Millican, McDowell, Clay, Johnson, Willis, Warren, McKee, Spratt, Penry, Richardson, Rockhold, Flowers, Smith (C), Starkey, Petelos, Bugg, Ford, Turner, Freeman, Parker (T), Butler, Kennedy, Williams, Holladay, Cosby, Zoghby, Gullatt, Mikell, Hill, Black (L), Haynes, Letson, Black (M), Perdue, Newton (D), McClain, Carter, Clark (W), Powell, Morton, Lindsey, and Hamilton:

H. 468. To amend Section 25-4-72, Code of Alabama 1975, as amended, relating to unemployment compensation weekly benefit, so as to increase the maximum of such benefit.

By Senator Waggoner:

S. 505. To amend Section 40-21-53 of the Code of Alabama 1975, relating to the gross receipts utility license tax, to abolish the electric bill credit granted to certain persons who are age 62 or older or who are totally and permanently disabled.

By Senator Foshee:

S. 507. To amend Section 36-26-26, Code of Alabama 1975, to provide a layoff procedure for certain state employees.

By Reps. White and Morrow:

H. 298. To provide that a pupil who is exempt from taking an examination shall be considered as being in attendance during the time of the examination.

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. McDaniel, Smith (C), Fuller, McMillan, Sanderson, Burke, Biddle, Harper, Turner, Beasley, Rogers (J), Laird, Gaston, Carter, Clark (J), Freeman, Cullins, Mathis, Gullatt, Blakeney, Powell, Richardson, Smith (R), Haney, Venable, Dolbare, Rockhold, Lindsey, Mikell, Newton (C), Flowers, Turnham, Hammett, Box, Williams, Carothers, Campbell, Carns, Starkey, Morton, Zoghby, Holley, Morrow, Sanderford, Knight, Gaines, Escott-Russell, Clay, Layson, Penry, Kennedy, Melton, and Letson:

H. 287. Relating to employment security programs of the Department of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992; to provide for the collection, appropriation, and disbursement of such assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment: to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; and to clarify the procedure for determining shared costs.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Hilliard:

S. 373. To establish a Recycling Industry and Market Development Council to assist in the development of markets for recovered materials and products with recycled content in this state and to provide for the function, duties, and membership of the council.

Senator Hilliard, Chairperson of the Standing Committee on Com-

merce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Hilliard (With Substitute):

S. 415. To amend Section 10-5-2.1 of the Code of Alabama 1975, relating to the transfer of abandoned railroad rights-of-way, so as to provide that said rights-of-way shall cede to the state, to provide for the administration of said property and to provide compensation to the owner of said property.

By Senator Hilliard (With Substitute):

S. 421. Relating to persons or organizations who coordinate or provide bus or motor coach tours or trips in Alabama for educational purposes; so as to exempt such persons or organizations from rules or regulations of the state Public Service Commission adopted pursuant to Section 37-3-34 or any other parts of Title 37, Chapter 3, Code of Alabama 1975, as amended.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Hilliard:

S. 497. Relating to the operation of certain tour buses in this state; to provide for the payment of the registration fee payable to Public Service Commission and the identification marker or trip permit fee payable to the Department of Revenue by a single payment submitted to the Department of Tourism and Travel; and to exempt tour buses from the motor carrier mileage tax; for this purpose amending Sections 37-3-32, 40-17-50, 40-19-1, and 40-19-2 of the Code of Alabama 1975.

By Senator Hilliard:

S. 498. To further amend Section 37-3-4, Code of Alabama 1975, as amended, relating to certain exemptions from the Alabama Motor Carriers Act for certain motor carriers and others to allow certain motor carriers who transport passengers of certain nonprofit groups, organizations, societies, corporations, public institutions, or other organ-

izations with tax exempt status by the federal government pursuant to 26 U.S.C.A. 501(c), to charge lesser rates or tariffs; to require certain filings with the Public Service Commission in the manner prescribed by the commission; and to provide for an effective date.

By Senator Hilliard:

S. 500. To amend Section 37-3-4, Code of Alabama 1975, so as to include certain motor carriers who transport certain property in open-top dump vehicles to the exemptions contained therein.

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. Carter and Hamilton:

H. 491. Proposing an amendment to the Constitution of Alabama of 1901, relating to Limestone County, prohibiting any municipality in a county contiguous to Limestone County, in which the sale and distribution of alcoholic beverages is authorized by law and whose municipal limits extend into Limestone County from selling or distributing alcoholic beverages in that portion of the municipality located in Limestone County.

The above Bill was read a second time at length as required by the Constitution.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 276. To propose a constitutional amendment to amend Sections 6.17 and 6.18 of Amendment 328 of the Constitution of Alabama of 1901, establishing the Judicial Inquiry Commission and the Court of the Judiciary, to provide that the District Judges' Association shall appoint two district judges to serve as members of the Judicial Inquiry Commission and Court of the Judiciary.

The above Bill was read a second time at length as required by the Constitution.

By Senator Foshee:

S. 450. To further provide for the implementation of the pilot project for a uniform system for electronic voting and for the electronic transfer of election returns in the 1992 elections; to provide for reimbursement by the state of certain expenses of the county from savings from election expenses and election printing expenses; and to provide for orderly participation of counties in the program.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Rep. Hooper:

H. 82. To define and provide for the establishment of community development districts; and to prescribe the method by which alcoholic beverages may be lawfully sold within such districts.

RESOLUTIONS

Senators Dial and Horn offered the following Senate Joint Resolution, to-wit:

SJR 71. DESIGNATING A "LEGISLATIVE TEACHING DAY" IN ALABAMA.

WHEREAS, the Legislature of Alabama is in total agreement that our classroom teachers are the strongest link in the educational chain; and

WHEREAS, it is in the classroom that the door to knowledge is unlocked and that receptive young minds are opened; it is there, too, that Alabama's youth acquire the necessary skills, training and experience to reach their fullest potential, and the encouragement they receive in the classroom is their springboard to a successful future as well-educated and responsible adults; and

WHEREAS, there are countless dedicated teachers throughout the many school systems in Alabama who possess a natural talent for teaching, are proficient in their field, and who further strive to instill in

their students the qualities, values and attitudes needed for personal growth and development; and

WHEREAS, over the years, however, and increasingly so, an extra load has been added to the already heavy burden we have asked our teachers to bear; they are now frequently called upon to cope with unruly and unacceptable behavior; lack of respect for authority and the rights of others; as well as violence and immoral conduct, much of which is directly attributable to parental indifference and lack of discipline in the home; and

WHEREAS, in order to fully understand and appreciate what is expected, and even demanded, of our teachers, it would be appropriate for the members of this body to walk, for just one day, in the shoes of the classroom teacher, in whose hands lie the future of our youth and the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate a "Legislative Teaching Day," to be selected and set by the Legislature, and request that each legislator on this date or, in the event of a conflict in schedule, on the first available date thereafter, teach one day in a classroom in a school system in his or her district.

BE IT FURTHER RESOLVED, That we request the principal of these schools, by letters directed to the Clerk of the House or the Secretary of the Senate, to recognize those legislators who participated in this one-day on-site teaching experience.

On motion of Senator Dial, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Waggoner offered the following Senate Joint Resolution, to-wit:

SJR 72. COMMENDING THE VESTAVIA HIGH SCHOOL GIRLS GYMNASTICS TEAM ON THE 1992 STATE CHAMPIONSHIP.

WHEREAS, it is with great pleasure that the Alabama Legislature most heartily commends the Vestavia High School Girls Gymnastics Team on the 1992 State Championship; and

WHEREAS, leading the team to the state title, and to a 15-0 perfect record, including county and state competition, were Coach Lynn

Sullivan and Assistant Coach Synthia Morgan; and

WHEREAS, the fantastic gymnasts from Vestavia Hills opened their season on a prophetic note with a score of 104.7 against Cullman, their lowest score of the season but good enough, as it turned out, to win the championship at the state competition in Huntsville with VHHS compiling a team score of 108.9 over Grissom's team score of 104.4; and

WHEREAS, in another regular season highlight, Maggie Halbrooks set the pace, with a score of 9.6 on the uneven bars, that led to Vestavia Hills' defeat, by almost seven points, of three-time defending state champion, Hewitt-Trussville, a team that had gone unbeaten for three years; and

WHEREAS, the Vestavia Hills team, in the Jefferson County Championship, again put it all together to take first place with a school record team score of 109.15, out in front of their closest competition which was the Hewitt team with 102.75; and

WHEREAS, Vestavia's Katie Sandlin was the Top All-Around Performer in county competition with Maggie second; individually, Maggie was first on bars, Katie second and Carrie Black third; on balance beam, it was Maggie first, Katie second and Carrie third; floor performance put Katie first, Carrie second and Maggie third; and in vault, it was Katie in second place; and

WHEREAS, in state competition and in addition to the 1992 Championship, Vestavia Hills placed Maggie and Katie on the All-State team who, in that order, took first and second place honors as All-Around Top Gymnast in the State; and

WHEREAS, individually, at the state level it was first and second in vault for Maggie and Katie, respectively; Maggie first and Katie tied for second on bars; Maggie second and Katie fourth, on beam; and Carrie, Katie and Maggie, in first, second and third place in floor competition; and

WHEREAS, rounding out the VHHS State Champions' roster were talented teammates Christin Wingo, Erin Salmon-Brown, Kristie Tortomasi, Kelly Holland, Christy Langston, Carey King, Andrea Kwater, Julia Neel and Andrea Collins; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement as the winner of the 1992 State Championship,

we hereby most highly commend the Vestavia High School Girls Gymnastics Team, and do further direct that copies of this resolution be provided for appropriate presentation and school display.

On motion of Senator Waggoner, the Rules were suspended and the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 464, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Smith (B) -25

Nays:

- 0

BILLS ON THIRD READING

THE BILL:

S. 464. Proposing an amendment to the Constitution of 1901, consolidating under one county public authority or corporation any public authorities or corporations created by Lawrence County for economic development in Lawrence County pursuant to Amendment No. 190 of the Constitution of 1901, and all powers and authority granted to Lawrence County by Amendment No. 190; to provide that the county public authority or corporation shall assume any outstanding obligations created pursuant to Amendment No. 190.

was read a third time at length as required by the Constitution and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Smith (B) -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., HB 460, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom
-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 460. Relating to Lawrence County; providing for the levy and collection of fees for recording certain documents filed for record in the office of the judge of probate, providing for the distribution and use of the fees, and providing for retroactive effect.

was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., HB 128, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Sanders,

Waggoner, Wilson, and Windom

-25

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 128. Relating to Limestone County, repealing Act No. 88-411, H. 892, 1988 Regular Session, relating to the compensation of the chief deputy sheriff.

was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Sanders, Waggoner, Wilson, and Windom

-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., HB 327, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Wilson

-25

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 327. Relating to Walker County; authorizing the County Commission to levy an additional ad valorem tax and providing for a referendum.

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was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Wilson
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Little, B.I.R., SB 484, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Hilliard, Horn, Langford, Lindsey, Little, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom
-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 484. Providing further for the salary of the sheriff of Lee County, Alabama.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Hilliard, Horn, Langford, Lindsey, Little, Parsons, Preuitt, Owens, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Mitchell, B.I.R., HB 265, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Preuit, Sanders, Smith (B), Smith (J), and Waggoner -25

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 265. Relating to the City of Troy in Pike County; authorizing the city council to levy an additional ad valorem tax for education purposes; and providing for a referendum.

was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Preuit, Sanders, Smith (B), Smith (J), and Waggoner -25

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Harper:

HJR 198. CREATING A JOINT LEGISLATIVE COMMITTEE ON COMMUNITY PUNISHMENT AND CORRECTIONS.

WHEREAS, overcrowding of state prisons and local jails in the State of Alabama continues to be a serious problem affecting state corrections policy, local courts, and entire communities; and

WHEREAS, the State of Alabama has borrowed more than one hundred thirty million dollars (\$130,000,000) during the decade of the 1980s for construction of major prisons; the state prison population has doubled in Alabama during the last 10 years, increasing at approximately 100 inmates per month; the state prison population currently stands at approximately 17,000 inmates, while more than 1,400 state inmates are currently being housed in county jails; Alabama's incarceration rate remains one of the highest in the United States of America and currently stands at 370 inmates per 100,000 Alabama citizens; and the average length of stay in an Alabama prison is 2.9 years, which is more than twice the national average; and

WHEREAS, during the 1980s, expenditures on corrections from the State General Fund increased 394 percent while the amount in the State General Fund grew only 187 percent during that same time period; and

WHEREAS, a critical need exists to establish and implement model community-based punishment programs that would offer the state judiciary a wider range of intermediate punishment options for non-violent property crime offenders, while assuring public safety and reducing prison and jail overcrowding; and

WHEREAS, the Legislature of Alabama has taken a leading role in addressing this critical problem through the enactment of the Community Punishment and Corrections Act of 1991; and

WHEREAS, The Sentencing Institute, a private, non-profit corporation established on March 18, 1991, serves as a center for the development and coordination of criminal sentencing policy and reform in Alabama; and has the goal of devising punishment programs for non-violent criminal offenders which are effective, cost efficient, and affordable; and

WHEREAS, The Sentencing Institute, in conjunction with local judges, district attorneys, county commissioners, sheriffs, the Department of Corrections, and the Board of Pardons and Paroles, has undertaken the development of comprehensive model community punishment programs in approximately 14 judicial circuits throughout the state; and

WHEREAS, the goals of each community punishment program

under development by The Sentencing Institute are to:

1. Divert eligible non-violent, property crime offenders to local programs which are much less costly than state incarceration, therefore making available state prison beds for violent offenders.
2. Emphasize short-term incarceration, work, remedial education, job-skills training, as well as training in job-seeking, restitution to the victim, addiction education and treatment, and assimilation back into the community.
3. Provide judicial, prosecutorial, and criminal justice system education and training.
4. Require diverted offenders to pay for a portion of the cost of the program.
5. Move offenders from a community facility to an intensively supervised program within approximately four months of sentencing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is created a joint legislative committee to provide for the general oversight of the development, implementation, and evaluation of community punishment and corrections programs throughout the state pursuant to the provisions of the Community Punishment and Corrections Act of 1991. The committee shall be composed of six members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the fifth legislative day of each Regular Session. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for atten-

dance of other state business. The total expenditures of the committee shall not exceed \$500,000 per year. The committee shall have subpoena power.

BE IT FURTHER RESOLVED, That it is the understanding of the Legislature of Alabama that The Sentencing Institute is currently completing the development of approximately 14 comprehensive model community punishment programs which it expects to conclude not later than April 30, 1992, and will report such to the Joint Committee on Community Punishment and Corrections.

Upon completion, The Sentencing Institute will coordinate the implementation and evaluation of such programs pursuant to the provisions of the Community Punishment and Corrections Act of 1991, Act No. 91-441, a project to be completed not later than September 30, 1993. The Sentencing Institute will also provide for the judicial, prosecutorial, and criminal justice system education and training regarding such programs.

The Legislature of Alabama further understands that The Sentencing Institute will report quarterly to the Joint Committee on Community Punishment and Corrections concerning the status of program development, implementation, and evaluation, the number of offenders diverted from state incarceration, and the status of new program development.

BE IT RESOLVED FURTHER, That it is the intent of the Legislature of Alabama that each agency and department of the criminal justice system of the State of Alabama provide necessary and timely cooperation to The Sentencing Institute in the development of a five-year Strategic Plan on the Criminal Justice System of Alabama to be completed not later than 30 days prior to the 1993 Regular Session of the Legislature of Alabama.

It is the understanding of the Legislature of Alabama that The Sentencing Institute is a private, non-profit corporation which is not, and cannot be an agency or arm of the government of the State of Alabama.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Parsons, the Resolution, HJR 198, set out in the foregoing Message from the House, was indefinitely postponed.

Senator Parsons then moved that the Senate reconsider the motion by which the Resolution, HJR 198, was indefinitely postponed, and further moved that the motion to indefinitely postpone be laid on the table. The motion to table prevailed.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 73. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the eighteenth legislative day of the 1992 Regular Session only:

	Page
S. 261	34
Abortion or reproductive health centers, req. to maintain liability ins. in cert. amt., license revoked if fail to maintain	

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Bailey, B.I.R., SB 261, adopted.

Yeas 20 Nays 9

Yeas:

Senators:

Amari, Bailey, Bolling, deGraffenried, Dial, Dixon, Ellis, Foshee, Ghee, Hale, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (J), Waggoner, and Windom -20

Nays:

Senators:

Bedsole, Bennett, Campbell, Corbett, Figures, Floyd, Hilliard, Langford, and Lindsey - 9

SPECIAL ORDER BILLS ON THIRD READING RESUMED

The Senate proceeded to consideration of the special, paramount,

and continuing order of business for today, which was the Bill:

S. 261. To provide for mandatory professional liability insurance for all abortion or reproduction health centers as defined by state law; to require the obtaining of professional liability insurance by abortion or reproduction health centers in order to obtain a license to operate, renewal of a license, or for continued operation.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 182. RELATIVE TO MEETING DAYS.

Also:

HJR 199. MOURNING THE DEATH OF OTIS MERRITT WARD OF MOBILE, ALABAMA.

Also:

HJR 202. DESIGNATING MAY 22, 1992, AS "UNITED STEEL WORKERS OF AMERICA LOCAL 2176 DAY" IN ALABAMA.

Also:

HJR 203. RELATIVE TO MEETING DAYS.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint

Resolutions, your signature thereto is requested.

HJR 188. COMMENDING THE UNIVERSITY OF MONTEVALLO ON THE INITIATION OF ITS QUALITY ASSURANCE PROGRAM.

Also:

HJR 189. COMMENDING THE JOHN TYLER MORGAN ACADEMY OF SELMA, ALABAMA, FOR ACADEMIC AND ATHLETIC EXCELLENCE.

Also:

HJR 190. COMMENDING JOHN ROBERT BOOTHE, JR., FOR DISTINGUISHED SERVICE AS INTERIM PRESIDENT OF OPELIKA STATE TECHNICAL COLLEGE.

Also:

HJR 195. COMMENDING WILLIAM J. FULFORD, III, FOR DISTINGUISHED SERVICE DURING OPERATION DESERT STORM.

Also:

HJR 196. EXPRESSING APPRECIATION TO THE BAYOU LA BATRE CHAMBER OF COMMERCE.

Also:

HJR 197. HONORING MR. CHARLY FUGIKI AND HIS FIRM, C & C TRANSPACIFIC CORPORATION.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House

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Bills, your signature thereto is requested.

H. 128. Relating to Limestone County, repealing Act No. 88-411, H. 892, 1988 Regular Session, relating to the compensation of the chief deputy sheriff.

Also:

H. 265. Relating to the City of Troy in Pike County; authorizing the city council to levy an additional ad valorem tax for education purposes; and providing for a referendum.

Also:

H. 327. Relating to Walker County; authorizing the County Commission to levy an additional ad valorem tax and providing for a referendum.

Also:

H. 460. Relating to Lawrence County; providing for the levy and collection of fees for recording certain documents filed for record in the office of the judge of probate, providing for the distribution and use of the fees, and providing for retroactive effect.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing Message from the House.

FURTHER CONSIDERATION OF SB 261

The Senate proceeded to further consideration of the Bill, SB 261.

Senator Hilliard offered the following amendment to the Bill, SB 261, to-wit:

AMENDMENT TO SB 261

Amend Senate Bill No. 261, Page 1, Line 24, as follows: delete Section 1 in its entirety and insert in lieu thereof:

Section 1. No abortion or reproduction health center, as defined by the state of Alabama, Department of Public Health, shall be granted a license, renewal of a license or be authorized to continue operation under this act unless it maintains professional liability insurance or self insurance in an amount equal to that as required by the state of Alabama, Department of Insurance, for any other provider of health, medical, nursing, or other services.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to provide appropriations to implement the provisions of this act; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF SB 261

The Senate proceeded to further consideration of the Bill, SB 261. The question was on the Hilliard amendment.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 261, and pending amendment, was postponed temporarily.

MESSAGE FROM THE HOUSE

Mr. President:

The House has received the accompanying message from His Excellency, the Governor, proposing an amendment to the Bill:

H. 253 To amend Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots for the 1992 election cycle only, and to shorten the time period for the filing of declarations of candidacy, and for the certification of candidates only for the 1992 U. S. House of Representatives election cycle, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session.

Said Governor's Message being in words and figures as follows, to-wit:

MESSAGE FROM THE GOVERNOR

To The Alabama House of Representatives
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I transmit herewith to you a message from the Governor, returning House Bill No. 253, without the Governor's signature and with a suggested Executive Amendment.

Done this 19th day of March, 1992.

Respectfully submitted,

G. DENNIS NABORS
Executive Secretary/
Chief of Staff.

MESSAGE FROM THE GOVERNOR

To The Alabama House of Representatives
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I am returning to you, the body in which it originated, House Bill

No. 253, without my signature, but with the following suggested Executive Amendment:

EXECUTIVE AMENDMENT TO HOUSE BILL NUMBER 253:

Please amend House Bill Number 253 as follows:

Amend House Bill No. 253, page 1, line 24, by deleting the number "15" and inserting in lieu thereof the number "25".

Further amend House Bill No. 253, page 2, line 23, by deleting the number "29" and inserting in lieu thereof the number "40".

Further amend House Bill No. 253, page 3, line 1, by deleting the number "25" and inserting in lieu thereof the number "35".

Further amend House Bill No. 253, page 3, line 16, by deleting the number "27" and inserting in lieu thereof the number "38".

Further amend House Bill No. 253, page 3, line 18, by deleting the number "25" and inserting in lieu thereof the number "35".

Further amend House Bill No. 253, page 5, line 12, by deleting the number "29" and inserting in lieu thereof the number "40".

Done on this the 19th day of March, 1992.

Respectfully,

GUY HUNT
Governor.

The House has refused to make the amendment from His Excellency, The Governor, to the Bill by a vote of: Yeas 70, Nays 25.

And said HB 253, was again read at length and passed, the Governor's objections to the contrary notwithstanding, by a vote of a majority of the whole number elected to the House, said vote being: Yeas 73, Nays 27.

And said Bill, HB 253, together with the Governor's Message containing his objections, is herewith sent to the Senate.

GREG PAPPAS,
Clerk.

HOUSE AND GOVERNOR'S MESSAGE

Senator Corbett moved that the Senate concur in and adopt the amendment proposed by His Excellency, the Governor, to the Bill, HB 253, the title of which and said Executive amendment are set out in the foregoing Message from the House.

Senator deGraffenried offered a substitute motion that the Senate reconsider the Bill, which motion was adopted, and said Bill, HB 253, was again read at length and passed, the Governor's objections to the contrary notwithstanding, by a vote of a majority of the whole number elected to the Senate, said vote being:

Yeas 20 Nays 6

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Figures, Floyd, Ghee, Horn, Langford, Lindsey, Little, Mitchell, Owens, Parsons, Preuit, Smith (J), and Windom -20

Nays:

Senators:

Amari, Bedsole, Ellis, Hale, Lipscomb, and Waggoner - 6

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Thursday, March 26, 1992, at 2 o'clock P.M., which motion was adopted.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 74. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the eighteenth legislative day of the 1992 Regular Session only:

Page

S. 233

20

College tuition, auth. to be paid by st. for cert. students in financial need

H. 254	89
Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, uniform procedures for admin. of taxes by Revenue Dept., procedures of admin. of revenue laws standardized, Secs. of Titles 11, 22, 32, 35, 40 am'd., Titles 9, 22, 32, 40 repealed	
H. 225	86
Alabama Commission of Higher Education develop, Tuition Loan Program, gifted and talented teacher training students	
H. 233	86
Tax burden, study comm. on low income, duties to legis. fiscal office	
H. 236	87
Budget Management Improvement Act of 1992, Legislative findings improve state gov't. operations, secs. 41-19-3, 41-19-10 and 41-19-11 am'd.	
H. 230	88
Proration Prevention Act, repealed, Sec. 40-1-32.1 repealed	
H. 224	88
Education employees who are tenure, tenure decisions, final appeal to court of civil appeals, Secs. 12-2-7, 12-2-2, 12-3-10, am'd.	

Senator deGraffenried offered the following substitute for the Resolution, SR 74, to-wit:

SUBSTITUTE FOR SR 74

SR 74. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of.

	Page
S. 233	20
College tuition, auth. to be paid by st. for cert. students in financial need	
H. 254	89
Taxpayers' Bill of Rights and Uniform Revenue Procedures	

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Act, uniform procedures for admin. of taxes by Revenue Dept., procedures of admin. of revenue laws standardized, Secs. of Titles 11, 22, 32, 35, 40 am'd., Titles 9, 22, 32, 40 repealed

H. 225 86
Alabama Commission of Higher Education develop, Tuition Loan Program, gifted and talented teacher training students

H. 233 86
Tax burden, study comm. on low income, duties to legis. fiscal office

H. 236 87
Budget Management Improvement Act of 1992, Legislative findings improve state gov't. operations, secs. 41-19-3, 41-19-10 and 41-19-11 am'd.

H. 230 88
Proration Prevention Act, repealed, Sec. 40-1-32.1 repealed

H. 224 88
Education employees who are tenure, tenure decisions, final appeal to court of civil appeals, Secs. 12-2-7, 12-2-2, 12-3-10, am'd.

S. 115 54
Emergency Medical Services Act

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills and Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SB 116

SJR 57

SJR 59

Delivered to the Governor, March 24, 1992, at 2:50 P.M.

SB 194

Delivered to the Governor, March 24, 1992, at 5 o'clock P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 7 o'clock P.M., on motion of Senator Foshee, in accordance with House Joint Resolution and Motion heretofore adopted, and pending further consideration of the Resolution, SR 74, the Senate adjourned until Thursday, March 26, 1992, at 2 o'clock P.M.

Yeas 16 Nays 13

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lindsey, Parsons, and Windom -16

Nays:

Senators:

Amari, Bedsole, Corbett, deGraffenried, Ghee, Horn, Lipscomb, Little, Mitchell, Owens, Preuit, Smith (J), and Waggoner -13

NINETEENTH LEGISLATIVE DAY

THURSDAY, MARCH 26, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Hal McNeeley, Associate Pastor, Trinity Presbyterian Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Rebekah Coats, Crossroads Christian Academy, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Eighteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuit, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried leave of absence was granted Senators Figures and Wilson for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, April 7, 1992, at 2 o'clock P.M., which motion was adopted.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 387. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Fulton in Clarke County.

GREG PAPPAS,
Clerk.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senators Bedsole, Windom, Figures, and Lipscomb:

S. 530. To propose an amendment to the Constitution of Alabama of 1901 to establish an education accountability team in Mobile County; to provide for the levy of an additional ad valorem tax to finance schools; and to provide penalties.

Committee on Local
Legislation No. 3

The above Bill was read a first time at length as required by the Constitution.

By Senator Ellis (With Notice and Proof):

S. 531. Relating to Shelby County; to amend and reenact Act No. 596, H. 1577, 1975 Regular Session (Acts 1975, p. 1346), pertaining to a rehabilitation and work release program for jail inmates in certain counties classified on a population basis, so as to provide further for a work release program in Shelby County.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 531, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senators Mitchell, Ellis, Campbell, Denton, Dial, Little, Waggoner, Bolling, Owens, Preuitt, Langford, Bennett, Foshee, Wilson, and Ghee:

S. 532. To prohibit any person from entering into agreements with governmental units regarding unclaimed or uncashed checks from other governmental units; and to provide penalties.

Committee on Governmental
Affairs/State Administration

By Senator Corbett:

S. 533. To provide for the indemnity from liability for certain

county officials resulting from monetary loss as a consequence of good faith errors or honest mistakes made in the performance of their duties.

Committee on Governmental
Affairs/Local Government

By Senator Corbett:

S. 534. To provide that all deeds conveying an interest in real property shall contain, for ad valorem tax purposes, the mailing address of the grantee; the sales price of the property or its fair market value and to amend Section 35-4-110 and 35-4-113 of the Code of Alabama 1975.

Committee on Judiciary/Civil

By Senators Bolling and Denton:

S. 535. To amend Section 36-7-20, Code of Alabama 1975, to allow state agencies the option of paying the cost of an employee's travel expenses directly to a contracting facility furnishing room and board, when the employee is assigned to assist in suppressing on-going wildfires, natural disaster situations, or other emergencies.

Committee on Governmental
Affairs/State Administration

By Senator Smith (B):

S. 536. Amending Section 16-47-10 of the Code of Alabama 1975, granting additional arrest powers to police officers of the University of Alabama.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Sanders:

S. 537. To establish a procedure by which persons who are qualified to vote in this state may register to vote by mail.

Committee on Constitution
and Elections

By Senator Sanders:

S. 538. Relating to health care; permitting the establishment of

health care delivery networks; permitting midlevel health care practitioners to administer certain health services in the networks and prescribing the qualifications and permissible practices of these practitioners; creating the Alabama Board of Family Health Care Providers and specifying the powers and functions of the board; requiring the University of Alabama in Birmingham to establish certain continuing education programs, a physician recruitment and placement service, a Center of Excellence for Rural Health Care, and a rural health care program; requiring certain medical and nursing education modifications; permitting the establishment of health care trusts to encourage and coordinate the offering of health insurance coverage by employers and granting an income tax credit for employers and employees purchasing the insurance coverage; requiring certain students of institutions of higher education to participate in an insurance program; and requiring the establishment of a long-term case management demonstration program for functionally impaired persons.

Committee on Health

By Senator Windom:

S. 539. Relating to motor vehicles; to prohibit inducing the buyer of a motor vehicle pursuant to a retail installment contract or the lessee of a motor vehicle pursuant to a lease contract from subleasing the motor vehicle without certain consent; to prohibit the offering for hire of motor vehicles subleased in violation of this act; and to provide penalties.

Committee on Banking
and Insurance

By Senator Windom:

S. 540. Relating to the preservation and development of coastal areas of this state; to declare a moratorium until January 1, 1995, on the permitting, construction, or expansion of any new or existing sanitary landfills in any county which contains coastal areas; and direct the Alabama Department of Environmental Management to conduct an environmental impact study during the moratorium period on the potential environmental impact that new sanitary landfills or expansions of existing sanitary landfills may have on the coastal waters, estuaries, and estuarine sanctuaries located in any county which contains coastal areas.

Committee on Banking
and Insurance

By Senator Horn:

S. 541. To amend the Constitution of Alabama of 1901, by proposing amendments to Sections 217 (as amended by Amendment 373), 229 (as amended by Amendment 27), 232 (as amended by Amendment 473), of the Constitution of Alabama of 1901 and Amendment 25 of the Constitution and to repeal Sections 91 and 261 and to repeal Amendments 61, 212, 225 and 448 of the Constitution of 1901 so as to provide for the assessment of all property in three classifications; to provide for homestead and other exemptions; to permit but not require the Legislature to impose corporate franchise taxes; to authorize the imposition of an income tax; to repeal the requirement for personal exemptions in the income tax; to modify the earmarking of the income tax; to repeal the requirement that the federal income tax be deductible in computing net income. In addition, this bill would authorize the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed twenty-five one hundredths of one percent on the value of the taxable property within the state and provide for the distribution of the proceeds to be derived from said special tax for certain specified purposes. This bill would also limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; provide a procedure for appropriation of balances; provide a procedure for supplemental appropriations during special sessions; provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; provide a procedure for appropriations of revenue-raising measures; provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; provide an automatic emergency budgetary special session if the Legislature fails to meet its deadlines; provide time frames for the return of appropriation bills by the Governor; to provide that the provisions of this proposed amendment to the Constitution shall be linked to the enactment and ratification of certain bills introduced in the 1992 Regular Legislative Session and also to provide election procedures for this proposed amendment to the Constitution.

Committee on Finance
and Taxation

The above Bill was read a first time at length as required by the Constitution.

By Senator Horn:

S. 542. To propose and provide for the submission of an amendment to the Constitution of Alabama of 1901 levying a minimum local ad valorem tax for school purposes in each school district in the state, to provide the procedure to further increase local ad valorem taxes in school districts, to levy a special public school equalization tax of five mills per each one dollar of assessed valuation on all taxable property in the state, to provide for a public school equalization fund and to provide procedures for the public school equalization program.

Committee on Finance
and Taxation

The above Bill was read a first time at length as required by the Constitution.

By Senator Barron:

S. 543. To authorize the director of finance to establish a state employee injury compensation program and amend Sections 41-9-62 and 41-9-68, Code of Alabama 1975, related to the board of adjustment to make this new program the exclusive remedy for state employees who are injured while at work.

Select Committee on
Fiscal Responsibility

BILLS RE-REFERRED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the Bills, HB 164 and SB 129, and ordered same returned to the Senate with the recommendation that they be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, HB 164, re-referred to the Standing Committee on Governmental Affairs/State Administration, and the Bill, SB 129, re-referred to the Standing Committee on Education.

UNFINISHED BUSINESS

The Senate proceeded to consideration of the Unfinished Business for today, which was the Resolution:

SR 74. SPECIAL ORDER CALENDAR.

The question was on the deGraffenried substitute, which said substitute is set out in the Journal of the Senate for the Eighteenth Legislative Day.

Senator Preuitt offered the following substitute for the deGraffenried substitute for the Resolution, SR 74, to-wit:

**PREUITT SUBSTITUTE FOR DEGRAFFENRIED
SUBSTITUTE FOR SR 74**

SR 74. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following in the order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

1. House Messages

2. Committee Reports

	Page
S. 233	20
College tuition, auth. to be paid by st. for cert. students in financial need	
H. 254	89
Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, uniform procedures for admin. of taxes by Revenue Dept., procedures of admin. of revenue laws standardized, Secs. of Titles 11, 22, 32, 35, 40 am'd., Titles 9, 22, 32, 40 repealed	
H. 225	86
Alabama Commission of Higher Education develop, Tuition Loan Program, gifted and talented teacher training students	
H. 233	86
Tax burden, study comm. on low income, duties to legis. fiscal office	
H. 236	87
Budget Management Improvement Act of 1992, Legislative findings improve state gov't. operations, Secs. 41-19-3, 41-19-10, 41-19-11 am'd.	

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H. 230	88
Proration Prevention Act, repealed, Sec. 40-1-32.1 repealed	
H. 224	88
Education employees who are tenure, tenure decisions, final appeal to court of civil appeals, Secs. 12-2-7, 12-2-2, 12-3-10, am'd.	
S. 115	54
Emergency Medical Services Act estab., statewide emergency medical services system estab., Secs. 22-18-1 through 22-18-7 repealed	

Which was adopted.

On motion of Senator Preuit, said deGraffenried substitute, as amended, was adopted.

And on motion of Senator Preuit, the Resolution, SR 74, as amended by the substitute, as amended, was then adopted by the Senate.

BILL RE-REFERRED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the Bill, HB 470, and ordered same returned to the Senate with the recommendation that it be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, HB 470, re-referred to the Standing Committee on Industrial Development and Expansion.

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 41. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records two months following the payment of the billing for the telephone usage.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 41, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 41

Amend Senate Bill 41 on page 1 line 22 after the word "records" by deleting "two" and inserting in lieu thereof "six".

Further amend the bill on page 2, line 34 after the word "usage" by deleting "two" and inserting in lieu thereof "six".

Yeas 23 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -23

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 35. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 35, the title of which is set out in the foregoing Message from the House, to-wit:

SUBSTITUTE FOR SB 35

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-4, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Real Estate Commission, with the additional recommendations for statutory changes of the commission as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama Real Estate Commission, created and functioning pursuant to Sections 34-27-1 to 34-27-38, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-27-2, 34-27-4, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36 of the Code of Alabama 1975, are amended to read as follows:

"§34-27-2.

"(a) For purposes of articles 1 and 2 of this chapter, the following terms shall have the respective meanings ascribed by this section:

"(1) PERSON. A natural person.

"(2) BROKER. Any person licensed as a real estate broker under the provisions of articles 1 and 2 of this chapter.

"(3) ~~SALESMAN~~ SALESPERSON. Any person licensed as a real estate ~~salesman~~ salesperson under the provisions of articles 1 and 2 of this chapter.

"(4) QUALIFYING BROKER. A broker under whom a corporation, partnership, or branch office is licensed, or a broker li-

censed to do business as a sole proprietorship, and who is responsible for supervising the acts of the company or proprietorship and all real estate licensees licensed therewith.

"(5) COMPANY. Any corporation, partnership, or branch office licensed as a company under ~~the provisions of~~ articles 1 and 2 of this chapter.

"(6) ASSOCIATE BROKER. Any broker other than a qualifying broker.

"(7) LICENSEE. Any broker, ~~salesman~~ salesperson or company.

"(8) COMMISSION. The Alabama ~~real estate commission~~ Real Estate Commission, except where the context requires that it means the fee paid to a broker or ~~salesman~~ salesperson.

"(9) ENGAGE. Contractual relationships between a qualifying broker, and an associate broker or ~~salesman~~ salesperson licensed under him or her whether the relationship is employer-employee, independent contractor, or otherwise.

"(10) INACTIVE LICENSE. A license which is being held by the commission office by law, order of the commission, ~~or~~ at the request of the licensee, or which is renewable but is not currently valid because of failure to renew.

"(11) LICENSE PERIOD. That period of time beginning on October 1 of a year designated by the commission to be the first year of a license period and ending on midnight September 30 of the year designated by the commission as the final year of that license period.

"(12) COMMISSIONER. A member of the commission.

"(13) RECOVERY FUND. The Alabama ~~real estate recovery fund~~ Real Estate Recovery Fund.

"(14) PLACE OF BUSINESS.

"a. A licensed broker living in a rural area of this state who operates from his or her home, provided that he or she sets up and maintains an office for the conduct of the real estate business, which office shall not be used for living purposes or occupancy other than the conduct of the real estate business. ~~; provided further, such~~ The office shall be used by the broker only and not as a place of business from

which ~~(an)~~ any additional licensee(s) ~~may operate~~ operates under his or her license. ~~Such~~ The office ~~must~~ shall have a separate business telephone, separate entrance, and be properly identified as a real estate office.

"b. All licensees located within the city limits ~~and/or~~ police jurisdiction of a municipality ~~must~~ shall operate from a separate office located in the city limits ~~and/or~~ police jurisdiction. ~~Such~~ The office ~~must~~ shall have a business telephone, ~~must~~ meet all other regulations of the real estate commission, and ~~must~~ be properly identified as a real estate office. Hardship cases may be subject to waiver of this regulation upon application and approval by the commission.

"c. All business records and files ~~must~~ shall be kept at the place of business as ~~may be~~ required by law or real estate commission rules.

"(b) The licensing requirements of articles 1 and 2 of this chapter shall not apply to any of the following persons and transactions:

"(1) Any owner in the managing of, or in consummating a real estate transaction involving, his or her own real estate or the real estate of his or her spouse or child or parent. ~~;-or~~

"(2) ~~Attorney-at-law~~ An attorney-at-law performing his or her duties as an attorney-at-law. ~~;-or~~

"(3) ~~Person~~ Persons acting without compensation and in good faith under a duly executed power of attorney authorizing the consummation of a real estate transaction. ~~;-or~~

"(4) ~~Person~~ Persons or a state or federally chartered financial institution acting as a receiver, trustee, administrator, executor, or guardian; or acting under a court order or under authority of a trust instrument or will. ~~;-or~~

"(5) Public ~~officer~~ officers performing his their official duties. ~~;-or~~

"(6) ~~Person~~ Persons performing general clerical or administrative duties for a broker so long as the person does not physically show listed property. ~~;-or~~

"(7) Person acting as the on-site manager for an apartment building or complex if the manager resides on the premises. However, this exception shall not apply to a person acting as an on-site manager of a

condominium building or complex; ~~or~~

"(8) ~~Person~~ Persons licensed as a time-share ~~seller~~ sellers under article 3 of this chapter performing an act consistent with ~~the provisions of that article.~~ ~~;~~ ~~or~~

"(9) Transactions involving the sale, lease, or transfer of cemetery lots.

"§34-27-4.

"All fees, fines, charges, or other money, except as provided in section 34-27-31, collected by the commission shall be paid into the state treasury and shall constitute a separate fund to be disbursed by the state comptroller on order of the executive director at the direction of the commission. A proportionate share of all money collected by the commission as license fees during the first fiscal year of a multi-year license period or during the renewal period immediately preceding that first year shall be reserved in the separate fund by the state comptroller to be disbursed for commission expenses incurred in the subsequent years of that license period. The money shall be deposited into the State Treasury and held in a special fund to be known as the Real Estate Commission Proportionate Fund, and shall be held by the commission in trust for carrying out the purpose of this section. These sums may be invested by the State Treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments in the proportionate fund shall be deposited into the commission fund for expenditure by the commission the same as license fees are expended hereunder. The proportion for each year shall be determined by dividing the amount of money collected by the commission as license fees that first year or during the renewal period immediately preceding that first year by the number of years within that multi-year license period. All other money including penalty fees collected by the commission shall be disbursed during the fiscal year in which they are collected. The state comptroller and state treasurer are directed to pay all expenses incurred by the commission in performing its responsibilities and exercising its authority from the separate fund in the state treasury on warrants of the state comptroller drawn on the state treasury on order of the executive director. The commission may not incur expenses that exceed the total fees and charges collected and paid into the state treasury; or that exceed the amount appropriated by the legislature. No funds shall be withdrawn or expended except as shall be budgeted and allotted in accordance with the provisions of sections 41-4-80 through 41-4-96. All money remaining unexpended in the separate fund, except for the money reserved by the

~~state comptroller for disbursement in the subsequent years of a multi-year license period, at the end of each fiscal year shall be conveyed to retained by the state treasury to the credit of the general fund of the state of Alabama~~ commission for the following fiscal year.

"§34-27-7.

"(a) ~~There is hereby created the Alabama real estate commission~~ Real Estate Commission. The commission shall consist of eight members ~~appointed by the governor~~ Governor with the advice and consent of the ~~senate~~ Senate as hereinafter provided. The ~~governor's~~ Governor's appointments to the commission shall be made from a list of three persons nominated by the governing body of the Alabama professional real estate society or trade association which has the largest licensee membership, as evidenced by the filing of a verified list of paid members with the ~~secretary of state~~ Secretary of State within 10 days after April 16, 1989, and annually by December 31 of each year thereafter. At least one of the persons nominated for each commission seat shall not be a member of the ~~said the~~ real estate society or trade association. The ~~governor~~ Governor shall appoint one of the three nominated persons within 30 days following receipt of the list. If the ~~governor~~ Governor does not make an appointment within 30 days, the said real estate society or trade association shall provide the ~~governor~~ Governor a list of three additional nominees. The ~~governor~~ Governor, upon receipt of the second list of nominees, shall appoint one of the six nominees within 30 days following receipt of the nominees. Appointments made at times when the ~~senate~~ Senate is not in session shall be effective ad interim. Any appointment made by the ~~governor~~ Governor while the ~~senate~~ Senate is in session ~~must shall~~ be submitted ~~to the senate~~ not later than the third legislative day following the date of appointment. ~~;-any~~ Any appointment made while the ~~senate~~ Senate is not in session shall be submitted not later than the third legislative day following the reconvening of the ~~legislature~~ Legislature.

"(b) Ad interim appointments may be made by the ~~governor~~ Governor when the ~~legislature~~ Legislature is not in session only for vacancies occurring by reason of death or resignation of a board member. Ad interim appointments ~~must shall~~ be confirmed by the ~~senate~~ Senate at the next following regular or special session of the ~~legislature~~ Legislature. ~~and failure~~ Failure by the ~~senate~~ Senate to ~~so~~ confirm shall result in a vacancy on the board ~~which that~~ shall be filled by appointment by the ~~governor~~ Governor and confirmation by the ~~senate~~ Senate while the ~~legislature~~ Legislature is in session. Any ~~such~~ vacancy not acted upon shall remain a vacancy until it is filled at a subsequent session of the ~~legislature~~ Legislature in the manner ~~herein~~ prescribed in this section.

"(c) Each of the original seven appointees and their successors shall have been a resident and citizen of this state for at least 10 years prior to his or her appointment and whose vocation for at least 10 years shall have been that of a real estate broker or real estate ~~salesman~~ salesperson. No person convicted of a violation of any federal or state real estate license law shall be eligible to serve. Not more than one member from any ~~congressional district~~ United States Congressional District shall be appointed to serve at the same time. The members of the commission shall serve five-year terms. On and after April 7, 1988, no member shall serve for more than two consecutive terms of office, except, however, each member shall hold office until his successor is appointed by the Governor and confirmed by the senate. The period of time any member serves after the expiration of his term of office while awaiting the appointment and senate confirmation of his successor shall not be considered as a consecutive term of office in determining the two consecutive terms of office limitation herein provided. All appointments shall expire on September 30 of the final year of a term, or on the date a successor to the member is appointed and confirmed. If a member does not serve his or her full term, the ~~governor~~ Governor shall appoint, in the same manner as original appointments are made, subject to confirmation by the ~~senate~~ Senate, a member to serve the unexpired portion of the term.

"(d) On September 30, 1988, the ~~governor~~ Governor shall appoint one new member to the commission, subject to the confirmation of the ~~senate~~ Senate, who shall be a black member who meets all of the other requirements of subsection (c) ~~hereof~~, who shall serve no more than two consecutive terms of office, who shall be a full voting member, and who may be appointed from any congressional district in the state, ~~provided that each~~ Each successor black member shall be appointed from a different congressional district, to be rotated equally among the remaining congressional districts.

"(e) On the appointment of a new commissioner, the commission shall meet and select from its members a chairman.

"(f) Each member of the commission shall receive as full compensation ~~\$300.00~~ three hundred dollars (\$300) per month. The members of the commission, its staff, and attorneys shall receive the same per diem and travel allowance ~~as is~~ paid to state employees for each day they meet to conduct the official business of the commission.

"(g) The commission may employ an executive director and an assistant executive director, both of whom shall be exempted from the classified service under the general laws of the state, and ~~such~~ other staff

members ~~as are~~ necessary to discharge its duties and administer this chapter. The executive director and assistant executive director shall be employed on the basis of their education, experience, and skills in administration and management. The commission shall advertise to seek quality applicants possessing ~~such the~~ qualifications and shall conduct interviews of the top applicants. The assistant executive director shall act as and have authority of the executive director in his or her absence. The commission shall determine the duties and fix the compensation of the executive director, assistant executive director, and other staff members, subject to the general laws of the state.

"(h) The commission shall adopt a seal by which it shall authenticate records and documents. Copies of all records and documents in the office of the commission duly certified and authenticated by the seal of the commission shall be received in evidence in all courts equally and with ~~like the same~~ effect as the original. All public records kept in the office of the commission shall be open to public inspection during reasonable hours and under reasonable circumstances.

"(i) No commissioner shall be liable for damages resulting from any act performed in carrying out his or her duties as a commissioner.

"§34-27-8.

~~"(a) The commission may act by a majority of its members, and is authorized and empowered to~~ A majority of the commission members shall constitute a quorum for the conduct of commission business. The commission may adopt and enforce all rules and regulations pursuant to the state administrative procedure statutes as are necessary for the administration of the provisions of this chapter, and to otherwise do all things necessary and convenient for effecting the provisions of this chapter.

"(b) In addition to the powers granted ~~herein~~ in this section, the commission ~~is authorized and empowered to~~ may adopt and enforce rules and regulations governing the requirements of agency disclosure by licensed brokers and ~~salesmen~~ salespersons.

~~"(c) It is further expressly provided, however, that each sales contract~~ Each offer to purchase prepared after April 6, 1989, shall have prominently displayed either in pre-printed form or typed-in or hand-written in the following AGENCY DISCLOSURE clause:

"AGENCY DISCLOSURE: The listing Agency _____
_____ represents the Seller (unless otherwise stated), and the
selling Agency _____ represents _____ Seller
Purchaser.

Seller's initials _____ Purchaser's initials _____.

"§34-27-31.

"(a) The commission ~~is authorized and directed to~~ shall establish and maintain a recovery fund from which an aggrieved party may recover actual or compensatory damages, not including interest and court costs, sustained only within the state of Alabama as a result of conduct of a broker or ~~salesman~~ salesperson in violation of ~~a provision of~~ article 1 or 2 of this chapter or the rules and regulations of the commission.

"(b) Notwithstanding any other provision to the contrary, payments from the recovery fund are subject to the following conditions and limitations:

"(1) The fund shall not be obligated for the acts or omissions of a broker or ~~salesman~~ salesperson while acting on his or her own behalf or on behalf of his or her child, ~~or spouse,~~ or parent regarding property in which he or she or his or her spouse, ~~or child,~~ or parent has, or is attempting to acquire, an interest; or for the acts or omissions of an inactive licensee; or for the acts or omissions of a corporation, branch office, or partnership except through its licensed ~~salesmen~~ salespersons and brokers as individuals. ~~Nor shall the~~ The fund shall not be obligated for any judgment or settlement resulting from an act or omission of a broker or ~~salesman~~ salesperson committed in conjunction with the marketing or development of a time-sharing project.

"(2) Payments for claims based on judgments or settlements against any one person shall not exceed ~~\$50,000.00~~ fifty thousand dollars (\$50,000) in the aggregate.

"(3) Payments for claims arising out of the same transaction shall not exceed ~~\$25,000.00~~ twenty-five thousand dollars (\$25,000) in the aggregate, regardless of the number of claimants.

"(4) The fund shall not be liable for payments to a licensee or bonding company unless the licensee or bonding company was a principal party to a real estate transaction on which the judgment was based.

"(c)(1) When any person makes application for an original license as a broker or ~~salesman~~ salesperson, he or she shall pay, in addition to all other fees, a fee of ~~\$30.00~~ thirty dollars (\$30) for deposit in the recovery fund. In the event the commission does not issue the license, this fee shall be returned to the applicant.

"(2) Any salesperson licensee who has paid the additional fee and who has attained a broker license and has paid the additional broker fee shall be refunded, upon request, one of the additional fees and no other salesperson licensee shall be required to pay an additional fee upon attaining broker status.

"(3) Payments made to the recovery fund in lieu of bond by a licensee shall be paid only one time when he or she is originally licensed by the commission.

"(d) When the balance remaining in the recovery fund is less than \$500,000.00 five hundred thousand dollars (\$500,000), each broker and ~~salesman~~ salesperson shall on order of the commission pay a fee of \$30.00 thirty dollars (\$30) per license for deposit in the recovery fund. A licensee on inactive status shall not be required to contribute to the fund at that time. ; however, he shall pay a A fee of \$30.00 thirty dollars (\$30) shall be paid at the time his a license is activated.

"(e)(1) When an aggrieved person commences an action for a judgment which may result in collection from the recovery fund, the aggrieved person shall notify the commission in writing, by certified mail, return receipt requested, to this effect at the time of the commencement of the action.

"(2) When the commission receives the notice described in subdivision (e)(1), ~~the commission~~ it may enter an appearance, file pleadings and motions, appear at court hearings, defend the action, or take whatever other action it deems appropriate either on the behalf and in the name of the defendant, or in its own name. The commission may also take any appropriate method of review either on behalf and in the name of the defendant, or in its own name. The commission may settle or compromise the claim. Any expenses incurred by the commission in defending, satisfying, or settling any claim shall be paid from the recovery fund.

"(3) When an aggrieved person recovers a valid judgment in a court of competent jurisdiction against a broker or ~~salesman~~ salesperson on the grounds described in subsection (a) above, which occurred on or after October 1, 1979, the aggrieved person may, on the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, on 10 days' written notice to the commission, may apply to the court for an order directing payment out of the recovery fund of the amount unpaid on the judgment.

"(4) The court shall proceed on ~~such~~ the application ~~forthwith~~

immediately and, on hearing, the aggrieved person shall be required to show that each of the following:

"a. He or she is not the spouse, child, or parent of the debtor, or the personal representative of the spouse, child, or parent. †

"b. He or she has obtained a judgment, as described in subdivision (3) of subsection (e) of this section, stating the amount of the judgment and the amount owing on the judgment at the date of the application, and, that in such the action, he or she had joined any and all bonding companies which issued corporate surety bonds to the judgment debtor as principal and all other necessary parties. †

"c. The following items, if recovered by him or her, have been applied to the actual compensatory damages awarded by the court:

"1. Any amount recovered from the judgment debtor. †

"2. Any amount recovered from bonding companies. †

"3. Any amount recovered in out-of-court settlements.

"(5) The court shall order that the recovery fund pay whatever sum it finds due under the provisions and limitations of this section.

"(6) Should the commission pay from the recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, all licenses of the licensee may be terminated by the commission. The commission may refuse to issue a new license to the former licensee until he or she has repaid in full, plus interest at the rate of 12 percent a year, the amount paid from the recovery fund. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

"(7) If the balance in the recovery fund is insufficient to satisfy a duly authorized claim or portion of a claim, the commission shall, when sufficient money has been deposited in the recovery fund, satisfy the unpaid claims or portions, plus interest at the rate of 12 percent a year in the order that the claims were originally filed.

"(f) The sums received by the commission pursuant to ~~the provisions of this section~~ shall be deposited into the ~~state treasury~~ State Treasury and held in a special fund to be known as the ~~real estate recovery fund~~ Real Estate Recovery Fund, and shall be held by the commission in trust for carrying out the purposes of the recovery fund.

These sums may be invested by the ~~state treasurer~~ State Treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of the recovery fund shall be deposited in equal shares, as it accrues, into the general fund of the state treasury and the commission fund with one-half being placed in a separate fund for transmittal to the University of Alabama Chair for Real Estate for research and development.

"(g) When, on order of the court, the commission has paid from the recovery fund any sum, the commission shall be subrogated to all the rights of the judgment creditor, and all his or her right, title, and interest in the judgment, to the extent of the amount paid from the recovery fund, shall ~~thereby~~ be assigned to the commission. Any amount and interest recovered by the commission on the judgment shall be deposited to the fund.

"(h) The failure of an aggrieved person to strictly comply with all of the provisions of this section shall constitute a waiver of any rights under this section.

"(i) Each licensee shall notify the commission within 10 days after notice to him or her of the institution of any criminal prosecution against him or her, or of a civil summons and complaint against him or her, if the subject matter of the civil complaint involves a real estate transaction or involves the goodwill of an existing real estate business. The notification shall be in writing by certified mail and ~~must~~ shall include a copy of the summons and complaint. ~~or, if~~ If a criminal charge, is made, it shall include the specific charge made against him the licensee together with a copy of any indictment or information alleging the charges.

"(j) Each licensee shall notify the commission in writing by certified mail within 10 days after he or she receives notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed, or that a civil action in which he or she was a defendant and which involved a real estate transaction or the goodwill of a real estate business has resulted in a judgment or been dismissed. The notification shall be in writing and ~~must~~ shall include a copy of the court order or other document giving the licensee notice.

"§34-27-32.

"(a) A license for a broker or a ~~salesman~~ salesperson shall be registered to a specific real estate office and shall be issued only to, and

held only by, a person who meets all of the following requirements:

"(1) ~~Who is~~ Is trustworthy and competent to transact the business of a broker or ~~salesman~~ salesperson in a manner that safeguards the interest of the public. †

"(2) ~~Whose~~ Is a person whose application or license has not been rejected or revoked in any state within two years prior to date of application on any grounds other than failure to pass a written examination. Any applicant whose license has been revoked ~~must~~ shall meet all the requirements imposed on an original applicant for a license and shall not be relicensed without the approval of the commissioners. †

"(3) ~~Who is~~ Is at least 19 years old. †

"(4) ~~Who is~~ Is a citizen of the United States or is an alien with permanent resident status. † ~~and~~

"(5) ~~Who~~ Is a person who if a nonresident, agrees to sign an affidavit stating the following and in the following form:

"I, as a nonresident applicant for a real estate license and as a licensee, agree that the Alabama Real Estate Commission shall have jurisdiction over me in any and all of my real estate related activities the same as if I were an Alabama resident licensee. I agree to be subject to investigations and disciplinary actions the same as Alabama resident licensees. Further, I agree that civil actions may be commenced against me in any court of competent jurisdiction in any county of the state of Alabama.

"I hereby appoint the executive director or the assistant executive director of the Alabama ~~real estate commission~~ Real Estate Commission as my agent upon whom all disciplinary, judicial, or other process or legal notices may be served. I agree that ~~such~~ any service upon my ~~said~~ agent shall be the same as service upon me and that certified copies of this appointment shall be deemed sufficient evidence ~~thereof~~ and shall be admitted into evidence with the same force and effect as the original might be admitted. I agree that any lawful process against me which is served upon my ~~said~~ agent shall be of the same legal force and validity as if personally served upon me and that this appointment shall continue in effect for as long as I have any liability remaining in the state of Alabama. I understand that my ~~said~~ agent shall, within a reasonable time after service upon him or her, mail a copy of ~~same~~ the service by certified mail, return receipt requested, to me at my last known business address.

"I agree that I am bound by all the provisions of the Alabama real estate license law the same as if I were a resident of the state of Alabama.

_____ Legal signature of applicant"

"The commission may, ~~in its discretion,~~ reject the application of any person who has been convicted of or pleaded guilty or nolo contendere to a felony or a crime involving moral turpitude.

"(b) A person desiring to be a real estate broker in this state ~~must~~ shall apply for a broker's license on a form prescribed by the commission which shall specify the real estate office to which he or she is registered. Along with the application, he or she shall submit all of the following:

"(1) Proof that he or she has had an active real estate ~~salesman's~~ salesperson's license in ~~Alabama~~ any state for at least 24 months of the 36 month period immediately preceding the date of application. ✓

"(2) Proof that he or she is a high school graduate or the equivalent. ✓

"(3) Proof that he or she has completed a course in real estate approved by the commission, ~~which will~~ shall be a minimum of eight weeks in length, ~~which will~~ shall meet at least once a week, ~~which will~~ and shall contain a minimum of ~~45~~ 60 classroom hours. ~~This course must be taught by an instructor who has had approval of the Alabama real estate commission prior to an approved pre-license course and shall be taught within the state of Alabama.~~

"(4) Any other information requested by the commission.

~~"In lieu of the requirements of subdivisions (1) and (3) hereof, the applicant may furnish proof that he has successfully completed at least 15 semester hours or its equivalent in real estate courses approved by the commission.~~

"(c) A person desiring to be a real estate ~~salesman~~ salesperson in this state ~~must~~ shall apply for a ~~salesman's~~ salesperson's license with the commission on a form prescribed by the commission which shall specify the real estate office to which he or she is registered. Along with the application he or she ~~must~~ shall furnish all of the following:

"(1) Proof that he or she is a high school graduate or the equivalent. ✓

"(2) Proof that he or she has successfully completed a course in

real estate approved by the commission, which ~~will shall~~ be a minimum of eight weeks in length, ~~which will shall~~ meet at least once a week, ~~which will and shall~~ contain a minimum of 45 classroom hours. ~~This course must be taught by an instructor who has had approval of the Alabama real estate commission prior to an approved pre-license course and shall be taught within the state of Alabama. In addition, the applicant shall provide:~~

"(3) Any other information required by the commission.

"(d) An application for a company license for a corporation, partnership, or branch office shall be made by a qualifying broker on a form prescribed by the commission. The qualifying broker ~~must~~ shall be an officer, partner, or employee of the company.

"(e) An applicant for a company or broker license ~~must~~ shall maintain a place of business in the state of Alabama.

"(f) If the applicant for a company or broker license maintains more than one place of business in the state, he or she ~~must~~ shall have a company license for each separate location or branch office. Every application shall state the location of the branch office and the name of its qualifying broker. Each branch office shall be under the direction and supervision of a qualifying broker licensed at that address. No person may serve as qualifying broker at more than one location. The qualifying broker for the branch office and the qualifying broker for the corporation, partnership, or sole proprietorship shall share equal responsibility for the real estate activities of all licensees assigned to the branch office.

"(g) No person ~~may~~ shall be a qualifying broker for more than one company or for a company and on his or her own behalf unless:

"(1) All companies for which he or she is and proposes to be the qualifying broker consent in writing, ~~and~~

"(2) He or she files a copy of the written consent with the commission, ~~and~~

"(3) He or she will be doing business from the same location.

"A person licensed under a qualifying broker may be engaged by one or more companies with the same qualifying broker.

"(h) A company license shall become invalid on the death or

disability of a qualifying broker. Within 30 days after the death or disability, the corporation, or the remaining partners or the successor partnership, if any, may designate another of its officers, members, or ~~salesmen~~ salespersons to apply for a license as temporary qualifying broker. The person designated as temporary qualifying broker ~~either must~~ shall either be a broker or ~~must~~ must have been a ~~salesman~~ salesperson for at least one year prior to filing the application. If the application is granted, the company may operate under that broker for no more than six months after the death or disability of its former qualifying broker. Unless the company designates a fully licensed broker as the qualifying broker within the six months, the company license shall be classified inactive by the commission.

"(i) The commission may charge any applicant a fee for a criminal record search of the applicant in the same amount as is charged the commission by the Department of Public Safety or other agency for the search.

"(j) The commission may charge a fee of ten dollars (\$10) for furnishing any person a copy of a license, certificate or other official record of the commissioner.

"§34-27-33.

"(a) In addition to other requirements of this chapter, every applicant for a broker's or ~~salesman's~~ salesperson's license shall submit to a reasonable written examination. The commission shall conduct examinations at ~~such~~ places and times as it ~~shall prescribe~~ prescribes. The commission ~~is authorized to may~~ may contract with an independent testing agency to prepare, grade, or conduct ~~this~~ the examination. The fee shall be ~~\$75.00~~ seventy-five dollars (\$75) for each examination taken by the applicant, ~~and no~~ No refund shall be made if an applicant fails the examination. The examination fee shall be paid by certified check, cashier's check, or money order. If an applicant is scheduled and issued a written permit for an examination and fails to appear, one-half of the examination fee ~~will~~ shall be forfeited.

"(b) The applicant shall have 60 Within 90 days after passing the examination, ~~to secure a qualifying broker or to have his license classified as inactive; otherwise, he must~~ the applicant shall secure a qualifying broker and meet all requirements of an original applicant of this chapter and the board shall issue an active license or classify the license as inactive. In order to obtain an active license, the applicant's qualifying broker ~~must~~ shall sign and submit to the commission a sworn statement that the ~~salesman~~ applicant is in his or her opinion honest,

trustworthy, and of good reputation and that ~~he~~ the broker accepts responsibility for the actions of ~~such salesman~~ the salesperson as set out in section 34-27-31. The applicant's qualifying broker ~~must~~ shall be licensed in Alabama, ~~and must maintain a place of business in the state of Alabama.~~

"(c)(1) On passing the examination and complying with all other conditions for licensure, a temporary license certificate shall be issued to the applicant. The applicant is not licensed until he or she or his or her qualifying broker actually receives the temporary license certificate. The fee for the temporary license shall be the same as for an original license. A temporary license shall be valid only for a period of one year following the first day of the month after its issuance.

"(2) The holder of a temporary license shall not be issued an original license until he or she has satisfactorily completed a 30-hour post-license course prescribed by the commission. The holder of a temporary license must complete the course within 6 months of issuance of his or her temporary license and have his or her original license issued, otherwise his or her temporary license certificate shall automatically be placed on inactive status by the commission. During the remaining 6 months his or her temporary license is valid, the holder of a temporary license may complete the course and have his or her original license issued. If the holder of a temporary license does not complete the course and have his or her original license issued within one year following the first day of the month after its issuance, the temporary license shall automatically expire and lapse. A temporary license is not subject to renewal procedures in this chapter and may not be renewed.

"(3) In order to have his temporary license issued to active status, the applicant shall pay the recovery fund fee specified in this chapter. The holder of a temporary license shall, upon satisfactory completion of the course, pay the original license fee specified in this chapter to have his or her original license issued. An applicant for an original license who has paid the recovery fund fee specified in this chapter shall not be required to pay another recovery fund fee in order to have his or her original license issued.

"(4) The holder of an original license who has satisfactorily completed the post license course and whose original license has been issued, shall not be subject to the continuing education requirements in this chapter for the first renewal of his or her original license.

"This section shall become effective for licenses issued beginning October 1, 1993.

"§34-27-34.

"(a)(1) A broker may serve as qualifying broker for a salesman salesperson or associate broker only if ~~he is~~ licensed in Alabama, ~~and his or her principal business is that of a real estate broker, and he or she will shall~~ be in a position to actually supervise the real estate activities of the associate broker or salesman salesperson on a full-time basis, ~~and he must maintain a place of business in Alabama.~~

"(2) A salesman salesperson or associate broker ~~may shall~~ not perform acts for which a license is required unless licensed under a qualifying broker. A qualifying broker shall be held responsible to the commission and to the public for all acts governed by this chapter of each salesman salesperson and associate broker licensed under him ~~or her~~ and of each company for which he ~~or she~~ is the qualifying broker. It shall be the duty of the qualifying broker to see that all transactions of every licensee engaged by him ~~or her~~ or any company for which he ~~or she~~ is the qualifying broker comply with ~~the provisions of this chapter.~~ Additionally, the qualifying broker shall be responsible to an injured party for the damage caused by any violation of this chapter by any licensee engaged by the qualifying broker. This subsection does not relieve a licensee from liability that he ~~or she~~ would otherwise have.

"(3) The qualifying brokers' supervision responsibilities, as prescribed herein, over the real estate activities of associate brokers and ~~salesmen salespersons~~ licensed under him ~~or her~~ are not intended to and should not be construed as creating an employer-employee relationship contrary to any expressed intent of the qualifying broker and licensee to the contrary.

"(b) Any salesman salesperson or associate broker who desires to change his ~~or her~~ qualifying broker shall give notice in writing to the commission, and shall send a copy of the notice to his qualifying broker. The new qualifying broker ~~must shall~~ file with the commission a request for the transfer and a statement assuming liability for the licensee. On payment of a fee of ~~\$25.00~~ twenty-five dollars (\$25), a new license certificate shall be issued to the salesman salesperson or associate broker for the unexpired term of the original license. ~~No license transfer shall be made during September of the final year of a license period except in case of undue hardship.~~

"(c) A person who wishes to terminate his ~~or her~~ status as qualifying broker for a licensee may do so by notifying ~~the licensee and the commission in writing and sending the licensee's license certificate to the commission or verifying in writing to the commission that the~~

certificate has been lost or destroyed.

"(d) A person who wishes to terminate his or her status as a qualifying broker for a company may do so by submitting written notice to the company or qualifying broker of the parent company and the commission.

"(e) A ~~salesman~~ salesperson or associate broker shall not perform any act for which a license is required after his or her association with his or her qualifying broker has been terminated, or if he or she changes qualifying brokers, until a new active license has been issued by the commission.

"§34-27-35.

"(a) The commission shall prescribe the form and content of license certificates issued. Each qualifying broker's license certificate shall show the name and business address of the broker. The license certificate of each active ~~salesman~~ salesperson or associate broker shall show his or her name and ~~the name and address of his qualifying broker~~. The license certificate of each active ~~salesman~~ salesperson or associate broker shall be delivered or mailed to his or her qualifying broker. Each license certificate shall be kept by the qualifying broker and shall be publicly displayed at the address which appears on the license certificate.

"(b) The commission ~~shall have the authority, at its discretion, to~~ may establish a one-year or multi-year license period.

"(c) The original fee for a broker's license shall be ~~\$35.00~~ forty-five dollars (\$45) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for a broker's license shall be ~~\$35.00~~ forty-five dollars (\$45) per year for each year of the license period. The original fee for each ~~salesman's~~ salesperson's license shall be ~~\$25.00~~ thirty-five dollars (\$35) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each ~~salesman's~~ salesperson's license shall be ~~\$25.00~~ thirty-five dollars (\$35) per year for each year of the license period. The original fee for each company license shall be ~~\$25.00~~ thirty-five dollars (\$35) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each ~~such~~ license shall be ~~\$25.00~~ thirty-five dollars (\$35) per year for each year of the license period.

"(d) The license of a ~~salesman~~ salesperson who is subsequently

issued a broker's license automatically terminates upon the issuance of his or her broker's license certificate. ~~therefore he must return his salesman's~~ The salesperson's license certificate shall be returned to the commission in order for ~~his~~ a broker's license to be issued. If the ~~salesman's~~ salesperson's license is so terminated during a year prior to the final year of a multi-year license period, the licensee will ~~will~~ receive a refund equal to the license fee paid for each full year remaining in the respective license period. ~~However, no~~ No refund shall be made of any penalty fee or recovery fund deposit pertaining to the ~~salesman's~~ salesperson's license.

"(e) The commission shall prescribe a license renewal form, which ~~must~~ shall accompany renewal fees and ~~must~~ be filed on or before August 31 of the final year of each license period in order for the respective license to be renewed on a timely basis for the following license period. Licensees who renew during the period from September 1 of the final year of a license period through October 31 of the initial year of the following license period, shall pay a penalty of ~~\$15.00~~ fifteen dollars (\$15) in addition to the license fee. Any licensee renewing during the period from November 1 through September 30 of the initial year of a license period shall pay the required license fee, plus a penalty of ~~\$65.00~~ sixty-five dollars.

"(f) The renewal form shall be mailed by the commission to the licensee's place of business, if an active licensee, or to his or her residence if an inactive licensee, prior to August 1 of the final year of each license period. Each licensee ~~must~~ shall notify the commission in writing of any change in his or her business or residence address within 30 days of the change.

"(g) Every license shall expire at midnight on September 30 of the final year of each license period. An expired license may be renewed during the 12-month period following the license period for which the license was current. A licensee who fails to ~~file a renewal form or a request for an inactive classification~~ renew before the end of the 12-month period following the license period for which the license was issued shall be subject to all requirements applicable to persons who have never been licensed. An inactive license must be renewed in the same manner as an active license.

"(h)(1) Each applicant for renewal of a ~~salesman~~ salesperson or broker license issued by the commission shall, on or before the expiration date of ~~his/her~~ his or her license, submit proof of completion of not less than 12 clock hours of approved course work to the commission, in addition to any other requirements for renewal. ~~Provided, however, that~~

~~proof~~ Proof of attendance at ~~such~~ the course work, whether or not the applicant attained a passing grade in ~~such~~ the course, shall be sufficient to satisfy requirements for renewal. The ~~12~~ clock hours' course work requirement shall apply to each two-year license renewal, and hours in excess ~~thereof~~ of ~~12~~ shall not be cumulated or credited for the purpose of subsequent license renewals. The commission shall develop standards for approval of courses, and shall require certification of ~~such~~ the course work of the applicant.

Time served as a member of the state Legislature during each license renewal period shall be deemed the equivalent of the 12 hours course work and shall satisfy the requirements of this subsection.

"(2) This section shall apply to renewals of licenses which expire after September 30, 1986. ~~; however, an~~ An applicant for first renewal who has been licensed for not more than one year shall not be required to comply with this section for the first renewal of the applicant's license. Any licensee who is ~~65~~ 70 years of age or greater shall be exempt from this section.

~~"(3) Provided, however, under the provisions of this chapter, continuing~~ Continuing education shall not result in a passing or failing grade.

~~"(4) The commission shall promulgate rules and regulations as necessary to accomplish the purpose of this section in accordance with the Alabama Administrative Procedure Act.~~

"(i)(1) A licensee may request that the commission ~~classify~~ issue his or her license as to inactive status. Inactive licenses ~~will~~ shall be held at the commission office until activated. No act for which a license is required ~~may~~ shall be performed under an inactive license.

~~"(2) Any licensee whose license has been inactive for more than 50 percent of the 24 months immediately preceding the date he proposes that the license be activated shall not be able to activate his license without first providing proof to the commission that he has successfully completed a refresher course approved by the commission. Time spent in such courses shall not be credited toward the clock hours required for license renewal nor shall they be credited toward meeting the education requirements for obtaining an original broker's license.~~

"§34-27-36.

"(a) The commission or its staff may on its own, or on the veri-

fied complaint in writing of any person, investigate the actions and records of a licensee. The commission may issue subpoenas and compel the testimony of witnesses and the production of records and documents during an investigation. If probable cause is found, a formal complaint shall be filed and the commission shall hold a hearing on the formal complaint. The commission shall revoke or suspend the license ~~and/or~~ impose a fine of not less than ~~\$25.00~~ twenty-five dollars (\$25) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000), or both, or reprimand the licensee in each instance in which the licensee is found guilty of any of the following acts:

"(1) Procuring or attempting to procure, a license, for himself or herself or another, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license. ~~;-or~~

"(2) Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading, or renting real property of his or her own or of a spouse or child or parent. ~~;-or~~

"(3) ~~a-~~ Making a material misrepresentation, or failing

~~b-~~ Failing to disclose to a potential purchaser or lessee any latent structural defect or any other defect known to the licensee. Latent structural defects and other defects do not refer to trivial or insignificant defects but refer to those defects that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease. ~~;-or~~

"(4) Making any false promises of a character likely to influence, persuade, or induce any person to enter into any contract or agreement. ~~;-or~~

"(5) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or ~~salesmen~~ salespersons or any medium of advertising or otherwise. ~~;-or~~

"(6) Publishing or causing to be published any advertisement which ~~does or~~ deceives or which is likely to deceive the public, or which in any manner tends to create a misleading impression or which fails to identify the person causing the advertisement to be placed as a licensed broker or ~~salesman; or~~ salesperson.

"(7) Acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom he or she acts. ~~;-or~~

"(8) a. Failing, within a reasonable time, to properly account for or remit money coming into his or her possession which belongs to others, or commingling money belonging to others with his or her own funds. ~~✗~~

"b. Failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama. ~~✗~~

"c. Failing to keep for at least three years a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal, and other pertinent information. ~~✗~~

"(9) Placing a sign on any property offering it for sale, lease, or rent without the consent of the owner. ~~✗~~

"(10) Failing to voluntarily furnish a copy of each listing, contract, lease, and other document to each party executing the document with reasonable promptness. ~~✗~~

"(11) Paying any profit, compensation, commission, or fee to, or dividing any profit, compensation, commission, or fee with, anyone other than a licensee or multiple listing service. ~~✗~~

"(12) Paying or receiving any rebate from any person in a real estate transaction. ~~✗~~

"(13) Inducing any party to a contract to break the contract for the purpose of substituting a new contract, where the substitution is motivated by the personal gain of the licensee. ~~✗~~

"(14) If the licensee is a ~~salesman~~ salesperson or associate broker, accepting a commission or other valuable consideration for performing any act for which a license is required from any person except his or her qualifying broker. ~~✗~~

"(15) If a qualifying broker or company, allowing a ~~salesman~~ salesperson or associate broker licensed under him or her to advertise himself or herself as a real estate agent without the name or trade name of the qualifying broker or company appearing on the advertising in letters at least as large as the name of the ~~salesman~~ salesperson or associate broker; or if the licensee is a ~~salesman~~ salesperson or associate broker, advertising himself or herself as a real estate agent without the name or trade name of the qualifying broker or company under whom the ~~salesman~~ salesperson or associate broker is licensed appearing on the

advertising in letters at least as large as the name of the ~~salesman~~
salesperson or associate broker. ~~;~~~~or~~

"(16) Presenting to the commission, as payment for a fee or fine,
a check that is returned unpaid. ~~;~~~~or~~

"(17) Establishing an association, by employment or otherwise,
with an unlicensed person who is expected or required to act as a
licensee, or aiding, ~~or~~ abetting, ~~or~~ conspiring with a person to circum-
vent the requirements of this chapter. ~~;~~~~or~~

"(18) Failing to disclose to an owner the licensee's intention to
acquire, directly or indirectly, an interest in property which he or she or
his or her associates have been employed to sell. ~~;~~~~or~~

"(19) Violating or disregarding any provision of this chapter or
any rule, regulation, ~~or~~ order of the commission. ~~;~~~~or~~

"(20) If a broker, accepting a "net listing" agreement for sale of
real property or any interest therein. A "net listing" is one that stipulates
a net price to be received by the owner with the excess due to be
received by the broker as his or her commission. ~~;~~~~or~~

"(21) Misrepresenting or failing to disclose to any lender,
guaranteeing agency, ~~or~~ any other interested party, the true terms of a
sale of real estate. ~~;~~~~or~~

"(22) Failing to inform the buyer or seller at the time an offer is
presented that he or she will be expected to pay certain closing costs and
the approximate amount of those costs. ~~;~~~~or~~

"(23) a. Having entered a plea of guilty or nolo contendere to, or
having been found guilty of or convicted of a felony or a crime involving
moral turpitude. ~~;~~~~or~~

"b. Having a final money judgment rendered against him or her
which results from an act or omission occurring in the pursuit of his or
her real estate business or involves the goodwill of an existing real estate
business. ~~;~~~~or~~

~~"(24) Using prizes, money, free gifts or other valuable consider-
ation as inducements to:~~

~~"a. Secure customers to purchase, rent or lease property when the
awarding of such prizes, money, free gifts or other valuable consider-~~

~~ation is conditioned upon the purchase, rental or lease; or~~

~~"b. Secure clients to list properties with licensee; or~~

~~"(25) (24) Offering free lots or conducting lotteries for the purpose of influencing a party to purchase or lease real estate. + or~~

~~"(26) (25) Failing to include a fixed date of expiration in a written listing agreement or failing to leave a copy of the agreement with the principal. + or~~

~~"(27) (26) Conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness. + or~~

~~"(28) (27) Acting negligently or incompetently in performing an act for which a person is required to hold a real estate license. + or~~

~~"(29) (28) Failing or refusing on demand to produce a document, book, or record in his or her possession concerning a real estate transaction conducted by him or her for inspection by the commission or its authorized personnel or representative. + or~~

~~"(30) (29) Failing within a reasonable time to provide information requested by the commission during an investigation or after a formal complaint has been filed. + or~~

~~"(31) (30) Failing without cause to surrender to the rightful owner, on demand, a document or instrument coming into his or her possession. + or~~

~~"(32) (31) If a qualifying broker or company, failing to keep in their files copies of all contracts, leases, listings, and other records pertinent to real estate transactions for a period of three years.~~

~~"(b) If it appears that a person, firm, corporation, or any business entity has engaged, or is about to engage, in an act or practice constituting a violation of a provision of article 1 or 2 of this chapter or any rule or order of the commission, the commission, through the attorney general, may institute legal actions to enjoin the act or practice and to enforce compliance with articles 1 and 2 of this chapter or any rule or order of the commission. To prevail in such an action, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof."~~

Section 4. The Legislature concurs in the recommendations of

the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Also:

AMENDMENT TO SB 35

On page 2, line 7, after the word "over" delete "70" and insert in lieu thereof the following:

65

On page 28, line 20, delete "70" and insert in lieu thereof the following:

65

Also:

AMENDMENT TO SB 35

Amend SB 35 as substituted, on Page 6, lines 1-5, delete subparagraph (7) in its entirety and insert in lieu thereof the following:

(7) ~~Person~~ Persons acting as the on-site manager for an apartment building or complex if the manager resides on the premises. However, this exception shall not apply to a person acting as an on-site manager of a condominium building or complex; or

Yeas 25 Nays 0

Abstaining 2

Yeas:

Senators:

Barron, Bedsole, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), and Waggoner -25

Nays:

- 0

Abstaining:

Senators:

Corbett and Windom

- 2

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 387. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Fulton in Clarke County.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolution with the original Senate Joint Resolution, and finds same correctly enrolled, to-wit:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed

the foregoing Senate Joint Resolution, the title of which is set out in the foregoing report from the Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 52. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology with certain modifications; to amend Sections 34-7-19 and 34-7-21, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 52, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 52

Amend SB 52 on Page 3, Section (b), Line 3 by deleting paragraph (b) in its entirety.

Yeas 27 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Lindsey, Lipscomb, Little, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, and Windom
-27

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 100. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 100, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 100

Amend SB 100 on page 8, line 8 by striking after the word owned the following: "and"

and inserting in lieu thereof, the following: "or"

Further amend on page 7 Delete Lines 29 through 33 in its entirety.

Further amend on page 5, Delete Lines 18 through 25 in its entirety.

Also:

Amend SB 100 on Page 5, Section (d), line 18 by deleting paragraph (d) in its entirety.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little,

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Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and
Windom -24

Nays: - 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-25, 34-31-26, 34-31-28, 34-31-29, and 34-31-32, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 45, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 45

Amend SB 45 as engrossed, on page 5, subsection (b), line 9, after the word "board" by inserting the following: in an amount not to exceed one-half of the amount set for fees pursuant to Section 34-31-25

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Corbett, Denton, Dial, Ellis, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom -24

Nays: - 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has

passed the following Senate Bill and returns same herewith to the Senate:

S. 43. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Public Accountancy with certain modifications; to amend Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Senate concurred in and adopted the following House amendment to the Bill, SB 43, the title of which is set out in the foregoing Message from the House, to-wit:

AMENDMENT TO SB 43

Amend SB 43 on Page 2, Line 34 by deleting after the word "taken" the words "and passed".

Further amend SB 43 on page 5, line 28 by deleting the word "December" and inserting in lieu thereof the word "January".

Further amend SB 43 on page 8, line 6 by inserting after the word "fees" the words "and late renewal penalties".

Further on page 8, line 7 by striking "subsection (b) and inserting in lieu thereof the words "this chapter".

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Corbett, Denton, Dial, Ellis, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), and Smith (J) -22

Nays:

- 0

RESOLUTION

Senators Windom, Waggoner, Dial, Parsons, Amari, Denton, Sanders, Corbett, Owens, Ghee, Floyd, Campbell, Mitchem, Figures, Bennett, Langford, Hilliard, Horn, Smith (J), Smith (B), Dixon, Foshee, Lindsey, Barron, Bailey, Preuitt, Wilson, Little, Bolling, Ellis, and Mitchell requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 75. DECLARING THE LEGISLATIVE INTENT REGARDING THE PASSAGE OF ACT NO. 90-671.

WHEREAS, the Legislature passed Act No. 90-671 during the 1990 Regular Session of the Legislature; and

WHEREAS, Section 1 of this act amended Section 40-23-4 of the Code of Alabama 1975, to exempt from the gross receipts tax in Section 40-23-2(2), all bingo games and operations that are conducted in compliance with validly enacted legislation authorizing the conduct of the games and operations and which comply with the distribution requirements of applicable local laws; and

WHEREAS, it was the intent of the Legislature in providing the tax exemption for bingo games and operations referred to in Act No. 90-671 that any sales taxes perceived by the State Department of Revenue to be due on revenues from bingo games and operations conducted prior to the effective date of Act No. 90-671 shall be abated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do declare and specify to any court or governmental agency interpreting the provisions of Act No. 90-671, now codified as Section 40-23-4 of the Code of Alabama 1975, that it was the intent of the Legislature of the State of Alabama that the provisions of that act be used solely with a prospective application from the effective date of the act so that any sales taxes perceived by the State Department of Revenue to be due on revenues from bingo games and operations conducted prior to the effective date of Act No. 90-671 shall be abated.

BE IT FURTHER RESOLVED, That any governmental agency or court shall receive this resolution as positive evidence of the legislative intent in passing Act No. 90-671.

On motion of Senator Windom, the Rules were suspended and the Resolution was adopted by the Senate.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Foshee:

S. 412. To amend Sections 34-24-120 and 34-24-122 of the

Code of Alabama 1975, to provide for definitions, the practice of chiropractic physicians, and to provide further for the authorities, rights, and duties of chiropractic physicians.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Preuitt:

S. 516. Proposing a Constitutional Amendment to provide for the prohibition of abortions in the state except to save the life of the mother, or in reported cases of specified rape or incest; to provide certain affirmative defenses for abortions performed when the pregnancy results from rape or incest; to provide that the woman upon whom the abortion is being performed is not subject to criminal penalties; to provide criminal penalties for the crime of abortion; to provide certain reporting requirements and criminal penalties for failing to report; and to repeal Section 13A-13-7 of the Code of Alabama 1975.

The above Bill was read a second time at length as required by the Constitution.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Mitchem and Barron:

S. 368. To provide that any murder as defined in Section 13A-6-2(a)(1), Code of Alabama 1975, shall be a capital offense subject to punishment by life imprisonment without parole or to death; to specify the sentencing procedures applicable in such cases; and to specify lesser included offenses in such cases.

By Senator Ghee:

S. 458. To amend Section 32-5A-191, Code of Alabama 1975, relating to the offense of driving under the influence of alcohol and drugs to increase the penalty for a fourth and subsequent conviction.

By Senators Bedsole, Foshee, and Dixon:

S. 466. To amend Section 36-21-40 of the Code of Alabama

1975, relating to certain definitions applicable to the peace officers' standards and training commission, so as to provide further for the definition of "law enforcement officer."

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Smith (J) (With Amendment):

S. 486. Relating to motor vehicles; to prohibit inducing the buyer of a motor vehicle pursuant to a retail installment contract or the lessee of a motor vehicle pursuant to a lease contract from subleasing the motor vehicle without certain consent; to prohibit the offering for hire of motor vehicles subleased in violation of this act; to provide civil remedies and damages; and to provide penalties.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. Butler, Hall, Haney, Grayson, Richardson, Anderson, Sanderford, Freeman, and Burke:

H. 275. Requiring certain businesses that advertise in a manner that solicits or entices customers to bring alcoholic beverages to the business for on premises consumption to have an Alcoholic Beverage Control Board Liquor License.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator Horn (With Amendments):

S. 469. To authorize each district attorney to establish a restitution recovery division within the Office of the District Attorney; to provide for notice, judicial hearings, and determinations; to provide for revocation of probation or parole, the imposition of sentence, or collec-

tion in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; and to provide for certain criminal penalties and exceptions.

Senator Foshee, Chairperson of the Standing Committee on Confirmations, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Harvey:

H. 52. To amend Sections 40-1-33, 40-12-190, 40-12-192, 40-12-196, 40-12-198 and 40-12-200 of the Code of Alabama, 1975, as amended. To provide that under certain conditions gasoline or motor fuel may be delivered to the motor fuel tank of a motor vehicle in this state from a tank truck or a vehicle used for purposes of transporting and selling gasoline or motor fuel if certain conditions are met. To make licenses for the sale of, use and other disposition of gasoline and other petroleum products a matter of public record. To change the definition of gasoline. To provide that a person who is in arrears or default to the state for any taxes shall not be issued a license. To provide for penalties for operating without a license. To provide for a change in the requirements for persons transporting gasoline in the state. To provide the Revenue Department rule making and enforcement authority for the provisions of this chapter.

By Rep. Fuller:

H. 154. To amend Section 17-4-150 of the Code of Alabama 1975, to provide further for the appointment of additional members to the board of registrars in any county with two courthouses.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. Fuller (With Substitute)(With Amendment):

H. 247. To provide for the reporting of tax exempt property by any lessee of the property; to provide for reports from the several county tax assessors and to the State Department of Revenue; and to provide penalties.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Rep. Freeman (With Amendments):

H. 240. To modify the tax imposed on the net income of individuals, trusts, estates, by repealing Code of Alabama (1975) Sections 40-18-1 through 40-18-39, 40-18-41 through 40-18-49, 40-18-51, 40-18-52, 40-18-54, 40-18-55, 40-18-57 through 40-18-76, 40-18-78, 40-18-81 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to income tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of an income tax based on federal taxable income with modifications; to provide transitional rules and elections to reflect differences between prior Alabama and federal law; to provide for the treatment of certain corporations electing to be taxed as S corporations; to provide for the collection of the tax by payment with returns, by withholding from salaries and wages, and by estimated tax payments; to provide certain transitional rules and elections; to provide for the severability of any invalid provision; and to provide for the bill to become effective only if an amendment to the Constitution of Alabama of 1901, proposed in H.B. 252 of the 1992 Regular Session, is adopted by the people and proclaimed by the Governor.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. McMillan (With Substitute)(With Amendment):

H. 227. To create the Commission on the Governance of Higher Education; and to provide an appropriation for the implementation of the act.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, with amendments, and they were severally read a second time and placed on the calendar, to-wit:

By Reps. Starkey, Butler, Fuller, Bugg, Knight, Sanderson, Hawkins,

Freeman, Curry, McClain, Gaines, Campbell, Rogers (F), Parker (T), Morton, Hooper, Perdue, Box, Payne, Parker (P), Harper, Burke, Escott-Russell, Spratt, Thomas, Clay, Cullins, Black (M), Biddle, Haney, Buskey (JL), Zoghby, Petelos, McDowell, Carter, Walker, Clark (J), Ford, and Rogers (J) (With Substitute)(With Amendments):

H. 239. Proposing an Amendment to the Constitution of Alabama of 1901, to authorize and require the levy of a minimum local ad valorem tax for school purposes in each school district in the state and to provide the procedure to further increase local ad valorem taxes in school districts.

The above Bill was read a second time at length as required by the Constitution.

By Rep. Turner (With Substitute)(With Amendments):

H. 221. To give the Act a title; to amend Section 16-6-1, Code of Alabama 1975 to require the appointment of fifteen members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission; to change the length of terms for members of the Alabama education study commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama 1975 to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama 1975 relating to the duties and responsibilities of the Standards on Excellence Commission, require the creation of an Education Master Plan to be approved by the state board of education, and to provide for the appointment of a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement of education, to provide for the appointment of this committee by the Alabama Education Study Commission and to provide that the commission shall develop plans for improving parental involvement in the educational process of children; to amend Section 16-8-1, Code of Alabama 1975 regarding the qualifications for membership on a county board of education to provide that a member of a county board of education have a high school education or a G.E.D. equivalency and after election successfully complete state funded annual boardmanship training

as provided by the Alabama Association of School Boards and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-2 of the Code of Alabama 1975, relating to terms of office for county board of education members, to provide further for the length of terms; to amend Section 16-8-23, Code of Alabama 1975 to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten (10) working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama 1975; to repeal Section 16-9-12, Code of Alabama 1975; to amend Section 16-11-2, Code of Alabama 1975 regarding the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete state funded annual boardmanship training as provided by the Alabama Association of School Boards or any other such organization which shall be approved by the State Board of Education or by legislative act and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama 1975 to provide that a city must have population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama 1975 to require that a city have a population of 5,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama 1975 to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama 1975; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama 1975 to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to amend Section 16-23-14, Code of Alabama 1975 to require the State Board of Education to authorize and prescribe minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evaluation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama 1975; to repeal Section 36-26-100, through Section 36-26-108 Code of Alabama 1975; to define teacher, support employee, superintendent, and employing board; to establish

criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties and evaluation of principals, to provide for an appeal of the evaluation of principals, to provide that a contract of an employee is effective until superseded or canceled, to provide that compensation may not be changed for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama 1975, and to repeal all conflicting laws.

By Rep. Fuller (With Substitute)(With Amendments):

H. 246. To authorize the abatement of local ad valorem taxes (other than those imposed for public school purposes and for capital improvements for public education), construction related transactions taxes, and mortgage and recording taxes incurred in establishing or expanding industries in Alabama; provides a procedure for granting the abatement of local ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes; limits the tax exemptions available through various public agencies and authorities and local governments; to require additional reporting of county tax assessing officials so that the annual abstract of property identifies and lists property by class and by public school system within the county; to provide transition rules; to preserve rights and obligations accrued under repealed laws; to provide for the severability of any invalid provision; to provide effective dates; to amend Section 40-7-35 and to repeal Sections 40-9-40 through 40-9-49, Code of Alabama 1975.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. Harper (With Substitute)(With Amendment):

H. 319. To establish the Personnel Control Reform Committee

for the review of all personnel hiring requests made by agencies of the State of Alabama; to prohibit such hiring unless favorably recommended by the committee; to provide for the severability of the provisions hereof; and to provide for an effective date.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Higginbotham:

H. 163. To amend Section 9-11-417, Code of Alabama 1975, relating to hunting licenses on commercial fowl hunting preserves, so as to provide for a 7-day "commercial fowl hunting preserve" hunting license.

By Reps. Penry, McMillan, and Harper:

H. 131. To provide for a commercial party boat license issued by the Division of Marine Resources of the Department of Conservation and Natural Resources for certain boats; to provide for the disposition of net revenues generated from the sale of the licenses; to provide for criminal misdemeanor penalties; and to provide for an effective date.

By Reps. Hamilton, Turner, Starkey, Butler, Burke, Carter, Powell, Ford, Black (M), Goodwin, Mikell, Haney, Smith (R), Hill, Knight, Parker (P), Richardson, Holley, Mathis, Newton (C), Willis, Hogan, McKee, Smith (C), and Hooper:

H. 41. To amend Sections 9-11-46, 9-11-47, 9-11-48, and 9-11-49, Code of Alabama 1975, relating to nonresident hunting licenses, so as to increase the fees therefor, and to delete certain provisions of Sections 9-11-47 and 9-11-49 relating to length of deer seasons under such licenses and to authorized guide hunting services.

By Reps. Richardson, McDaniel, Sanderford, Powell, Smith (C), Rogers (F), Goodwin, Black (M), Letson, Haney, Smith (R), Butler, Burke, Bowling, Starkey, Turnham, Cullins, and Bryant:

H. 40. To amend Sections 9-11-55 and 9-11-56, Code of Alabama, 1975, relating to certain nonresident fishing licenses, so as to further provide for the cost thereof.

Senator deGraffenried, Chairperson of the Standing Committee on

Public Welfare, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Langford (With Substitute):

S. 287. Providing group health insurance for certain retired judges of probate in the state employees group health insurance plan and providing that such retired judges shall pay the entire cost for having such group health insurance during retirement.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Floyd (With Notice and Proof):

S. 414. Relating to Etowah County; providing for the funding, operation, upkeep, and maintenance of the county-wide jail, juvenile facilities, work release center facilities, and support facilities.

By Senator Ellis (With Notice and Proof):

S. 445. Relating to Shelby County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

By Senator Lindsey (With Notice and Proof):

S. 517. Relating to Choctaw County; to ratify, confirm, and validate ab initio all water, sewer, gas, or electric systems in Choctaw County acquired by boards organized under Article 9, Chapter 50, Title 11 of the Code of Alabama 1975, as amended; and to give retroactive effect.

By Rep. Dolbare (With Notice and Proof):

H. 602. Relating to Washington County; to alter, rearrange, and

extend the boundary lines and corporate limits of the municipality of Chatom in Washington County, Alabama.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were read a second time, to-wit:

By Rep. Cullins:

H. 56. To propose an amendment to the Constitution of Alabama of 1901; to authorize the operation of bingo games for prizes or money by certain nonprofit organizations for charitable or educational purposes in Tallapoosa County.

The above Bill was read a second time at length as required by the Constitution.

By Rep. Cullins (With Notice and Proof):

H. 294. Relating to Tallapoosa County; to provide for the operation of bingo games for prizes or money by qualified organizations for bona fide charitable, educational, or other lawful purposes; to provide for permits or licenses, applications, forms, and contents to operate bingo and the revocation thereof; to provide for special permits or licenses; to prohibit certain activities; to provide for fees and expenses; to provide for the disposition of proceeds; to provide for the keeping of records and their inspection; to provide for supervision by the Circuit Court; to provide for certain powers and duties of the Sheriff; to provide for penalties and forfeitures; and to provide that this act shall become effective upon the adoption of an Amendment to the Constitution of Alabama of 1901 authorizing bingo in Tallapoosa County.

BILLS REFERRED

Pursuant to the provisions of Senate Rule 51, the President and Presiding Officer of the Senate ordered said Bills, HB's 56 and 294, referred to the Standing Committee on State Development and Tourism.

REPORTS OF COMMITTEES RESUMED

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Bolling and Barron (With Amendment):

S. 430. To amend Section 27-1-16, Code of Alabama 1975, relating to standard health insurance claim forms to provide for certain pharmacy and dental claim forms.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Bolling and Barron (With Substitute):

S. 433. To provide further for the reimbursement of health care providers by insurance companies and to repeal Section 27-1-17 of the Code of Alabama 1975.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Ellis:

S. 439. To amend Section 27-14-3 of the Code of Alabama 1975, to give charitable organizations an insurable interest in the life of any individual under certain conditions.

By Senator Hilliard:

S. 496. Relating to insurance, to amend Section 27-30-16, Code of Alabama 1975, which is the reserve valuation law for policies of a mutual aid association providing benefits payable in cash so as to require such valuation to be pursuant to the standard valuation law as contained in Section 27-36-7, Code of Alabama 1975.

By Senator Windom:

S. 525. To permit certain public entities to offset, hedge, or reduce interest rate, investment, payment, and similar risks in connection with their proper activities by entering into "swap agreements" and provide for conditions, requirements, and definitions applicable thereto.

By Senator Bailey:

S. 518. To amend Section 27-44-3, Code of Alabama 1975,

relating to the scope of coverage provided by the Alabama Life and Disability Insurance Guaranty Association, to restrict the coverage by the association to residents of the State of Alabama except as specified herein.

By Senators deGraffenried, Parsons, Little, Smith (B), Figures, Owens, Smith (J), Waggoner, and Campbell:

S. 520. To provide for the effect of reliance by creditors on a written opinion, regulation, or similar notice of the Superintendent of Banks as administrator of Chapter 19, Title 5, Code of Alabama 1975.

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Barron:

S. 526. To amend Section 39-7-14, Code of Alabama 1975, relating to boards of trustees of municipal improvement authorities; and to provide that those boards shall consist of five members that are qualified electors residing in the area serviced by the authority.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Wilson (With Notice and Proof):

S. 510. To alter, rearrange and extend the boundary lines and corporate limits of the City of Pickensville in Pickens County.

By Senator deGraffenried (With Notice and Proof):

S. 524. Relating to the sheriff's compensation and expense allowances paid, in good faith, by the Tuscaloosa County commission or other county officer pursuant to Act Numbers 79-719 and 79-720 of the 1979 Regular Session (Acts 1979, p. 1274), which acts provided for such expense allowances; ratifying, validating and confirming the actions of the county commission and any other county officer retroactively to August 8, 1979, and continuing thereafter; relieving any liability for

repayment by such officials; providing that the provisions of this act shall be construed in *pari materia* with any other laws relating to compensation or expense allowances or salary for the sheriff and specifically with the provisions of Act No. 87-454, S. 570 of the 1987 Regular Session (Act 1987, p. 683).

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Denton, Waggoner, Amari, and Smith (J):

S. 392. To amend Section 17-1-7 of the Code of Alabama 1975, relating to political activities of certain public employees, so as to regulate further political activities of law enforcement officers and peace officers and to subject said activities to certain criminal penalties.

By Senator Waggoner:

S. 504. Regulating the use of explosives; to require that the commercial users of explosives be required to obtain a blasting license, and a local explosives use permit from the appropriate municipal issuing authority; and to require certain persons to be certified as blasters; to provide a licensure procedure; to require that certain records be maintained on blasting operations; to create a special fund in the State Treasury; to make certain exemptions; to provide for penalties for violations; to authorize administrative and civil remedies for violations; to establish standards relating to seismograph measurements; to provide for the issuance, refusal, suspension, revocation or renewal of a blasting license, permit, or a certification for blasting under certain conditions; to provide for certain emergency variations from the general provisions of this act; to make a supplemental appropriation to the Department of Industrial Relations; and to provide for effective dates.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Reps. Willis, Crow, and Campbell (With Amendment):

H. 631. To propose a constitutional amendment relating to the

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volunteer fire departments, fire protection, and emergency services in Calhoun County and the levy and collection of additional special ad valorem taxes for the fire protection and emergency services, pursuant to Amendment 425 of the Constitution of 1901.

The above Bill was read a second time at length as required by the Constitution.

BUDGET ISOLATION RESOLUTION

Senator Amari, B.I.R., SB 233, adopted.

Yeas 21 Nays 4

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Floyd, Foshee, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Sanders, Smith (B), Waggoner, and Windom -21

Nays:

Senators:

Corbett, Hale, Lipscomb, and Parsons

- 4

**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 233. To provide for the college tuition of certain students in financial need to be paid by the state; to provide eligibility requirements for such payment; and to provide for the funding and implementation of the program.

The Standing Committee on Education reported the following amendment to the Bill, SB 233, to-wit:

AMENDMENT TO SB 233

Amend Senate Bill No. 233, on Page 2, Line 20, as follows:

Strike subsection (6) and insert in lieu thereof, "(6) Has no criminal record, except for misdemeanors which do not involve moral turpitude; and"

On motion of Senator Amari, said amendment was laid on the table.

Senator Amari then offered the following substitute for the Bill, SB 233, to-wit:

SUBSTITUTE FOR SB 233

**A BILL
TO BE ENTITLED
AN ACT**

To authorize the state to pay the tuition of any needy, qualified student pursuing a baccalaureate degree at any junior college, public college, or university; to provide for the administration of the tuition assistance plan by the Alabama Commission on Higher Education; and to provide for funding the plan.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The state may when funds are appropriated, pay the tuition of any student who enrolls in a junior college, public college, or university in this state to pursue a baccalaureate degree who satisfies all of the following requirements:

(1) Has continuously resided in Alabama during the twenty-four months preceding the date of junior college, college, or university enrollment.

(2) Has a parent or guardian who is a domiciliary of Alabama.

(3) Has graduated from high school within the two years preceding the date of application for tuition payment with a minimum cumulative grade point average of 2.5 calculated on a 4.0 scale.

(4) Has successfully completed 17 1/2 units of high school coursework (ninth grade level or higher), which constitutes a core curriculum and meets standards for admission to the desired junior college, college, or university. The core curriculum shall be defined as follows:

a. English I, II, III, IV (four units).

b. Algebra I and II (two units).

c. Geometry, Trigonometry, Calculus, or comparable Advanced Mathematics (one unit).

- d. Biology (one unit).
- e. Chemistry (one unit).
- f. Earth Science, Environmental Science, or Physics (one unit).
- g. American History (one unit).
- h. World History, World Civilization, Western Civilization, or World Geography (one unit).
- i. Civics and/or Economics (one unit).
- j. Foreign Language (two units in a single language).
- k. Computer Science, Computer Literacy, or Data Processing (one-half unit).

(5) Has a composite score on the American College Test of at least 18 or at least 20 on the enhanced American College Test.

(6) Has no criminal record except for misdemeanors which do not involve moral turpitude.

(7) Is found to be in financial need.

(8) Has applied for a federal educational grant.

(b) A student qualifies for payment of tuition as provided in this act if the student meets two of the requirements enumerated in subdivisions (3) through (5) of subsection (a) and fails to meet eligibility for the other requirement by an amount equal to ten percent or less. After the first year of this tuition assistance plan, the total number of students for whom the state will pay tuition to a specific junior college, college, or university in any year admitted under this subsection shall not exceed ten percent of the total number of students for whom the state paid tuition to the particular junior college, college, or university for the preceding year.

(c) To maintain continued state payment of tuition once enrolled in junior college or college, a student shall meet all of the following requirements:

(1) Steady academic progress toward a degree, earning not less than the minimum number of hours of credit required for full-time standing in an academic period.

(2) Full-time enrollment standing for not less than two semesters or three quarters in any academic year.

(3) Rank academically in the upper fifty percent of the total class in the junior college or college, or if not enrolled in a junior college or college, the upper fifty percent of the division within the institution of higher education. Notwithstanding this provision, any individual who maintains in his or her first academic year, a 2.0 grade point average calculated on a 4.0 scale shall remain eligible.

(4) Have no conviction of a crime except for misdemeanors which do not involve moral turpitude.

Section 2. (a) This act shall be administered by the Alabama Commission on Higher Education, or its successor. The commission may adopt rules and regulations pursuant to the Administrative Procedure Act to implement this act.

(b) The commission shall provide by rule for:

(1) A mechanism for informing all students of the availability of the assistance provided pursuant to this act early enough in their schooling that a salutary motivational effect is possible.

(2) Eligibility, applications, forms, financial audit procedures, other program audit procedures, and other matters related to efficient operation.

Section 3. An applicant shall be found to be in need if the family of the applicant:

(1) Has one unemancipated child under the age of twenty-one and the average adjusted gross income of the family for the preceding three years is less than thirty thousand dollars (\$30,000).

(2) Has two unemancipated children under the age of twenty-one and the average annual adjusted gross income of the family for the three preceding years is less than thirty-five thousand dollars (\$35,000).

(3) Has three or more unemancipated children under the age of twenty-one and the average annual adjusted gross income of the family for the three preceding years is less than forty thousand dollars (\$40,000).

The annual adjusted gross income of the family for the three

preceding years shall be verified by Internal Revenue Service income tax returns.

Section 4. The Legislature may annually appropriate to the Alabama Commission on Higher Education sufficient moneys to fund the initial and continuing tuition costs authorized by this act. All payments shall be made directly to the junior college, public college, or university to which the tuition is due. Prior to making payment, the commission shall notify the junior college, college, or university of the intent to pay the tuition and receive from the junior college, college, or university confirmation that the student has enrolled.

Section 5. The Alabama Commission on Higher Education may seek, accept, and expend funds from any source for the purposes provided in this act.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective October 1, 1993.

Senator Corbett offered the following amendment to the substitute for the Bill, SB 233, to-wit:

AMENDMENT TO SB 233

Amend the substitute for Senate Bill No. 233 Page 1 Lines 13, 26, 33 as follows: after the language "public college," insert:

"private in-state college";

Further amend on page 5 line 2 after the word "public" by inserting the following: "or private in-state";

Further amend on page 2, line 11 after the word "scale" by inserting the words "or equivalent".

Which was adopted.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 35. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-4, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

Also:

S. 41. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records six months following the payment of the billing for the telephone usage.

Also:

S. 43. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Public Accountancy with certain modifications; to amend Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975.

Also:

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-25, 34-31-26, 34-31-28, 34-31-29, and 34-31-32, Code of Alabama 1975.

Also:

S. 52. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology with certain modifications; to amend Sections 34-7-19 and 34-7-21, Code of Alabama 1975.

Also:

S. 100. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8,

34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF SB 233

The Senate proceeded to further consideration of the Bill, SB 233. The question was on the Amari substitute, as amended.

Senator Corbett offered the following amendment No. 2, to the substitute, as amended, to-wit:

AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED, FOR SB 233

Amend the substitute, as amended, for Senate Bill No. 233 Page 1 Line 32, as follows: after the word "enrolls" insert the following:

, or is enrolled in on the effective date of this act,

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 28 Nays 2

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett,

deGraffenried, Denton, Dial, Dixon, Ellis, Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (B), Smith (J), Waggoner, and Windom -28

Nays:

Senators:

Floyd and Lipscomb

- 2

And said Bill, SB 233, as amended by the substitute, as amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 27 Nays 3

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Foshee, Ghee, Horn, Langford, Lindsey, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -27

Nays:

Senators:

Ellis, Floyd, and Lipscomb

- 3

RESOLUTIONS

Senators Ghee and Dial requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 76. DESIGNATING THE OFFICIAL SITE FOR THE ALABAMA VETERANS OF VIETNAM MEMORIAL WALL.

WHEREAS, designed and to be constructed in Anniston, Alabama, is the Alabama Veterans Centennial Memorial Park that will include memorials to Veterans of each conflict from World War I to Desert Storm; and

WHEREAS, also to be constructed as a permanent memorial to Alabama's Vietnam Veterans, is a black granite replica of the Vietnam Memorial Wall in Washington, D.C., upon which will be inscribed the names of all Alabamians killed or missing in action during the Vietnam War; and

WHEREAS, it is both fitting and desirable that, as an enduring

and lasting tribute to the many courageous Alabamians who gave their lives for their country, or who remain missing, the Alabama Memorial Wall be located at a permanent site, and that the site be duly and officially designated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the Alabama Veterans Centennial Memorial Park as the official and permanent site of the Alabama Veterans of Vietnam Memorial Wall.

On motion of Senator Ghee, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 77. URGING THE CITY AND COUNTY BOARDS OF EDUCATION TO IMPLEMENT CERTAIN COST-SAVING MEASURES.

WHEREAS, the Legislature of Alabama recognizes the plight of education in the state and most particularly the dire financial straits of several school systems; and

WHEREAS, it is imperative that school boards initiate and implement any available measures to ease the financial crisis in education so that schools will not have to be closed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That all city and county boards of education are urged to:

1. Immediately implement any cost-saving measures that would ease the crisis in the school systems.
2. Develop a procedure whereby administrative personnel of the boards, including public relations personnel, would be placed on furlough.
3. Establish a bank account in local banks to accept voluntary contributions from the public.

BE IT FURTHER RESOLVED, That each city and county board of education be advised, by copy of this resolution, of our concern and our request.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Mitchem requested and received permission to suspend the Rules in order to bring up the Bill, HB 468.

Senator Mitchem, B.I.R., HB 468, adopted.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom -27

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 468. To amend Section 25-4-72, Code of Alabama 1975, as amended, relating to unemployment compensation weekly benefit, so as to increase the maximum of such benefit.

was read a third time at length and passed.

Yeas 27 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom -27

Nays:

- 0

Senator Mitchem then requested and received permission to suspend the Rules in order to bring up the Bill:

H. 287. Relating to employment security programs of the De-

partment of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992; to provide for the collection, appropriation, and disbursement of such assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment: to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; and to clarify the procedure for determining shared costs.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, HB 287, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., HB 254, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), Waggoner, and Windom

-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 254. To provide further for the administrative procedures of the revenue department relating to the taxpayers' rights concerning refunds, penalties, assessments and appeals; to establish new uniform procedures for the administration of taxes administered by the department of revenue; to amend certain sections of Titles 11, 22, 32, 35 and 40 and to repeal certain sections of Titles 9, 22, 32 and 40, Code of

Alabama 1975, relating to specific procedures for specific taxes, so as to standardize procedures for administering the revenue laws and to remove certain ambiguities and conflicts; to provide further for penalties; and to provide an effective date.

was read a third time at length and passed.

Yeas 27 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Smith (J), Waggoner, and Windom -27

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Bedsole, B.I.R., HB 225, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Sanders, Smith (J), Waggoner, and Windom -24

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 225. To authorize the Alabama Commission on Higher Education to develop a tuition loan program for talented residents to attend a postsecondary institution for the sole purpose and intent of becoming a certified teacher employed in critical need areas of the state.

was taken up.

The Standing Committee on Finance and Taxation reported the following amendment, to-wit:

AMENDMENT TO HB 225

Amend House Bill 225 on Page 1, Line 25 by inserting after the

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word "and" the following word: "or".

Further amend House Bill 225, on Page 1, Line 35, by adding the following language: "The Alabama Commission on Higher Education shall develop qualifications and standards that applicants must meet in order to apply for a tuition loan under said program."

Further amend House Bill 225 on Page 2, Line 14 by inserting after the word "program" the following language: "and the proposed qualifications and standards necessary for application for such loans."

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Sanders, Smith (J), Waggoner, and Windom -23

Nays:

- 0

The Standing Committee on Finance and Taxation then reported the following amendment No. 2, to the Bill, HB 225, as amended, to-wit:

AMENDMENT NO. 2 TO HB 225, AS AMENDED

Amend House Bill 225, as amended, on Page 2, Line 16, as follows:

by deleting the word "shall" and inserting in lieu thereof the word "may".

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Sanders, Smith (J), Waggoner, and Windom -23

Nays:

- 0

Senator Bedsole offered the following amendment to the Bill, HB 225, as amended, to-wit:

AMENDMENT TO HB 225, AS AMENDED

Amend House Bill 225, as amended, on page 1, line 39 after the period by inserting the following:

"The State Board of Education shall annually, on or before the second day of each Regular Session, submit its list of areas of critical need to the Legislature for approval."

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Waggoner, and Windom -24

Nays:

- 0

And said Bill, HB 225, as thus amended, was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (J), and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Langford, B.I.R., HB 233, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 233. To establish the Alabama Commission to Study the Tax Burden on Alabama Citizens with Low Income; to require the Legislative Fiscal Office and Alabama Department of Revenue to conduct a Tax Burden Study and to assist the Commission created herein; to provide for the powers and duties of said Commission; to provide for the severability of the provisions hereof; and to provide for an effective date.

was taken up.

The Standing Committee on Finance and Taxation reported the following amendment to the Bill, HB 233, to-wit:

AMENDMENT TO HB 233

Amend House Bill 233, on Page 6, Line 20, as follows:

By deleting the word "Commission" and inserting in lieu thereof the words "Department of Revenue".

Further amend House Bill 233 on Page 6, Lines 22 and 23, after the word "taxpayer" by inserting a period and deleting the remainder of Lines 22 and 23 in their entirety.

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (J), and Windom -23

Nays:

- 0

The Standing Committee on Finance and Taxation then reported the following amendment No. 2, to the Bill, HB 233, as amended, to-wit:

AMENDMENT NO. 2 TO HB 233, AS AMENDED

Amend House Bill 233, as amended, on Page 1, Line 35, by

deleting the number "15" and inserting in lieu thereof the number "17".

Further amend House Bill 233, on Page 2, after Line 13, by adding the following language:

"9. One member shall be appointed by the Alabama State University Board of Trustees, which person shall be a member of the faculty of that university.

10. One member shall be appointed by the Alabama A&M University Board of Trustees, which person shall be a member of the faculty of that university."

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (J), and Windom -23

Nays:

- 0

And said Bill, HB 233, as thus amended, was read a third time at length and passed.

Yeas 23 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (J), and Windom -23

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., HB 236, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton,

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Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchem, Owens, Preuit, Sanders, Smith (J), and Windom -21

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 236. To amend Section 41-19-3, Code of Alabama 1975, in order to further provide for effective management of state governmental operations.

was read a third time at length and passed.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Smith (J), and Windom -22

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Horn, B.I.R., HB 230, adopted.

Yeas 23 Nays 1

Yeas:

Senators:

Bennett, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), and Windom -23

Nay: Senator Lipscomb - 1

BILLS ON THIRD READING RESUMED

THE BILL:

H. 230. To repeal Section 40-1-32.1 of the Code of Alabama 1975, entitled the Proration Prevention Act of 1988.

was read a third time at length and passed.

Yeas 21 Nays 5

Yeas:

Senators:

Bailey, Bedsole, Bennett, Campbell, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), and Windom -21

Nays:

Senators:

Bolling, Corbett, deGraffenried, Lipscomb, and Little - 5

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., HB 224, adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Windom -23

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 224. To amend Section 12-2-7, to give the Alabama Court of Civil Appeals exclusive and final jurisdiction of appeals of decisions affecting the tenure of employees of public schools; To amend Section 12-2-2, to provide that the justices of the Supreme Court, shall not have authority to issue writs of certiorari in matters of tenure of employees of the public schools, and to grant exclusive jurisdiction to the Court of Civil Appeals; To amend Section 12-3-10, to require that appeals of decisions affecting the tenure of employees of public schools shall receive preferential and expedited review over certain other civil cases within the exclusive jurisdiction of the Alabama Court of Civil Appeals.

was read a third time at length and passed.

Yeas 22 Nays 1

Yeas:

Senators:

Bailey, Bennett, Bolling, deGraffenried, Denton, Dixon, Ellis, Floyd,

Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell,
Mitchem, Owens, Parsons, Sanders, Smith (J), and Windom -22

Nay: Senator Corbett - 1

REPORT FROM RULES

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following House Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

HJR 158. COMMENDING R. JOHN SAMANIEGO OF TUSCALOOSA, ALABAMA, AS THE 1991 OUTSTANDING FRATERNAL ORDER OF POLICE MEMBER OF THE YEAR.

And on motion of Senator Preuitt, said Resolution, HJR 158, was concurred in and adopted by the Senate.

BILLS ON THIRD READING RESUMED

THE BILL:

S. 115. To establish the 1992 Emergency Medical Services Act of Alabama providing for a statewide emergency medical services system; and to repeal Sections 22-18-1 to 22-18-7, inclusive, of the Code of Alabama 1975.

was taken up.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bill and Senate Joint Resolution delivered to the Governor, with the date and hour of delivery, to-wit:

SB 387

SJR 18

Delivered to the Governor, March 26, 1992, at 3:08 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 5:45 P.M., on motion of Senator Sanders, in accordance with House Joint Resolution and Motion heretofore adopted, and pending further consideration of the Bill, SB 115, the Senate adjourned until Tuesday, April 7, 1992, at 2 o'clock P.M.

Yeas 15 Nays 12

Yeas:

Senators:

Amari, Bennett, Campbell, Corbett, Denton, Floyd, Foshee, Horn, Langford, Lindsey, Little, Mitchell, Parsons, Sanders, and Windom -15

Nays:

Senators:

Bailey, Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Ghee, Hale, Lipscomb, Owens, and Preuitt -12

TWENTIETH LEGISLATIVE DAY

TUESDAY, APRIL 7, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Jay Wolf, Pastor, First Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Travis Richie, Berry High School, Birmingham, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Nineteenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

**JIM PREUITT,
Chairperson.**

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator Foshee, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 233. To authorize the state to pay the tuition of any needy, qualified student pursuing a baccalaureate degree at any junior college, public college, private in-state college or university; to provide for the administration of the tuition assistance plan by the Alabama Commission on Higher Education; and to provide for funding the plan.

JIM PREUITT,
Chairperson.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, McDaniel, Sanderford, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 666. To amend Section 40-17-31 of the Code of Alabama 1975, to increase the excise tax for gasoline by \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services School

District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to provide for the distribution of the supplemental net tax proceeds; to amend Section 40-17-81 of the Code of Alabama 1975, to provide that the State Treasurer shall make all allocations and distributions of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 666 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 669. To amend Section 40-17-2 of the Code of Alabama

1975, to levy an additional excise tax of \$.05 per gallon upon the selling, using, or consuming, distributing, storing, or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; and to provide for the effective date of this act.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 669 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 665. To further provide for the issuance of obligations by the Alabama Federal Aid Highway Finance Authority and for the use of proceeds of obligations of the authority for the purpose of anticipating and providing for the federal share of the cost of constructing federal aid projects on the state highway system; for this purpose amending Sections 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-313, 23-1-314, and 23-1-317, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 665 - to the Committee on Finance and Taxation

RESOLUTIONS

Senators Windom and Bedsole requested and received permission

to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 78. REQUESTING THE U.S.S. ALABAMA BATTLESHIP COMMISSION TO STUDY THE FEASIBILITY OF ACQUIRING THE SPRUCE GOOSE, THE HK-1 (KAISER-HUGHES, 1ST AIRCRAFT) FLYING BOAT.

WHEREAS, The Legislature notes that the HK-1 Flying Boat, commonly known as the Spruce Goose, was designed by the reclusive billionaire Howard Hughes in the early 1940's; and

WHEREAS, the unique aircraft was never flown after its single test flight in 1947, which Hughes piloted; it flew one mile at a height of 70 feet; and

WHEREAS, this enormous eight-engine wooden flying boat, with room for 700 passengers, has a wingspan of 318 feet; and

WHEREAS, currently the Spruce Goose is located at Long Beach, California, where as a major tourist attraction it draws an estimated 500,000 people annually; and

WHEREAS, the current operators of the concession facility have announced the termination of their agreement effective September 30, 1992, raising the possibility that the Spruce Goose may be relocated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the U.S.S. Alabama Battleship Commission is requested to study the feasibility of moving the Spruce Goose, the HK-1 (Kaiser-Hughes, 1st Aircraft) Flying Boat to Battleship Park on Mobile Bay.

On motion of Senator Windom, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Bennett requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 79. URGING AN INVESTIGATION OF THE "HUEYTOWN HUM" AND OTHER PSYCHIC OCCURRENCES IN THE HOMETOWNS OF ALABAMA STATE SENATORS.

Which was read and referred to the Standing Committee on Rules.

Senators Bedsole, Windom, Lipscomb, and Figures requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 80. COMMENDING SCOTT PAPER COMPANY ON ITS PROPOSED MAJOR CAPITAL INVESTMENT PROGRAM AND ITS CONTINUING SUPPORT OF THE MOBILE COUNTY SCHOOLS.

WHEREAS, the Legislature of Alabama herein most highly commends Scott Paper Company on its proposed capital investment program, totaling some \$340 million dollars, at its Mobile facility; and

WHEREAS, this major undertaking will include the purchase of machinery and/or equipment to recycle chemicals used in the pulp-making process, to distill and eliminate concentrations of odorous material, and to modernize other parts of the mill, including the Woodyard, Brownstock, and Utilities operations; and

WHEREAS, considered necessary by company officials to sustain pulp and paper production levels, this \$340 million additional capital investment in equipment and construction will also save more than 1,000 jobs that could have been lost in Mobile, and will enable the Scott Paper Company facility to continue as a major employer and important contributor to the economy of Mobile and Alabama; and

WHEREAS, the Scott operation in Mobile, which employs approximately 3,600 people with a payroll of \$130 million per year, generates some \$75 million per year in taxes for employee and employer payroll taxes, sales and use taxes, property taxes, franchise taxes, among others; and

WHEREAS, although the company already pays \$1.15 million per year in property taxes for the Mobile County school system, a decision has been made to provide additional support through payments, in lieu of taxes, to the school system on the \$250 million portion of the capital investment that is financed through the Industrial Development Board, or an approximate total amount of \$9 million over the next 15 years, at the industrial property rate which is double that of residential property; and

WHEREAS, an added and very positive impact on Mobile's economy will come through the purchasing of equipment and construction supplies, and the hiring and spending of construction workers both during the one and one-half years of construction, and for additional workers several years thereafter for other phases of the project; and

WHEREAS, Scott's Mobile facility which, started in 1939 as

Hollingsworth and Whitney, merged with Scott Paper Company in 1954 and is actually several plants, including a Pulp Mill, S. D. Warren fine papers mill, a Scott Worldwide tissue and towel mill, and a Utilities cogeneration plant; the company purchases timber from independent landowners, manages its own timberlands, and operates its own Marine Transportation system to bring raw material to the mill; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Scott Paper Company on its major expansion project, and express our deepest appreciation for Scott's positive impact on the economy in Mobile and Alabama, and for its on-going and longtime support of the Mobile Public Schools.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mr. Jerry Ballas, vice president of Scott Paper Company's Southern Operations.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 81. ESTABLISHING TASK FORCE TO STUDY HEALTH CARE REFORM AND COST CONTAINMENT.

WHEREAS, this Legislature is concerned about accessible, quality, affordable health care for the people of Alabama; and

WHEREAS, the time has come to shift the main focus in health care from illness and cure to an orientation toward prevention, wellness, and care; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is established the Alabama Task Force To Study Health Care Reform and Cost Containment. The Task Force shall be directed by the Medicaid Commissioner, who shall act as its chair and shall provide such staff assistance as is needed by the Task Force. In addition, the commissioner shall solicit and encourage membership and participation by representatives of the following governmental agencies, industries, and professions: the Legislature, hospital administration, physicians, the Department of Public Health, members of hospital boards of directors, businesses, labor, insurance, pharmaceutical businesses, nursing, judges and attorneys.

BE IT FURTHER RESOLVED, That the Task Force shall study all aspects of health care reform and cost containment, including, but not limited to: the certificate of need program; operating room procedures; the necessity of certain medical testing; medical and hospital fees; costs of prescription and non-prescription drugs; discounted rates for certain groups for hospital care; indigent medical care; uncompensated medical care; rural health care; collection practices for medical care; medical insurance; public payors; prevention of illness techniques; hospital financial data such as usual charges, length of stay, costs companions; and comparisons with other states.

RESOLVED FURTHER, That any plan of health care cost containment shall, at a minimum, include the following:

- (1) Required usage of managed care in the public plan and encouraged usage in private plans.
- (2) Incentives for consumers and providers to utilize managed care arrangements.
- (3) Controlled growth of the health care system through planning and prudent resource allocation.
- (4) Incentives for consumers and providers to be more cost efficient in exercising health care options.
- (5) Development of health care policies based on effectiveness and outcomes research; assurance of direct access to a full range of qualified providers.
- (6) The elimination of unnecessary bureaucratic controls and administrative procedures.

RESOLVED FURTHER, That a copy of this resolution be sent to the Commissioner of Medicaid in order to begin the implementation of the study and Task Force.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Mitchem requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 82. COMMENDING PEARL COLLIER FOR OUTSTANDING SERVICE TO THE MARSHALL COUNTY RETIRED

SENIOR VOLUNTEER PROGRAM.

WHEREAS, in noting the retirement on April 3, 1992, of Pearl Collier as director of the Marshall County Retired Senior Volunteer Program (RSVP), the Alabama Legislature acknowledges with highest commendation her many accomplishments of the past 16 years; and

WHEREAS, a former office worker in Cullman and, after moving to Arab in 1953, a retail buyer for the Ratliff stores and later an employee of the Belk-Hudson chain, Mrs. Collier joined the Marshall County RSVP agency, one of the oldest programs in the country, in 1975; and

WHEREAS, Mrs. Collier, from the onset of her tenure as director of Marshall County RSVP, worked tirelessly to the betterment of this outstanding volunteer program; solely through her efforts, agency funding greatly increased and, by working through the political process, she was instrumental in Alabama's becoming only the second state in the nation to fund the federally initiated RSVP program; and

WHEREAS, today, Marshall County has 300 RSVP volunteers, from 60 to 91 years of age, who are actively helping at 41 non-profit agencies and stations throughout the area; this involvement in the community has enriched the lives of these many RSVP participants and, in turn, the services they provide have enriched the lives of countless others; and

WHEREAS, Mrs. Collier, to whose credit the successful operation of the Marshall County program is due, also has been active in leadership with the Alabama Association of RSVP and at the national level, as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service as director of the Marshall County RSVP program, and of the significant impact she has had on RSVP in Alabama and countrywide, we hereby most highly commend Mrs. Pearl Collier, whom we hold in warmest personal regard and to whom a copy of this resolution shall be presented.

On motion of Senator Mitchem, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Mitchem then requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 83. COMMENDING COACH JOHN KITCHENS AND THE SNEAD STATE JUNIOR COLLEGE WOMEN'S BASKETBALL TEAM.

WHEREAS, a major role of Alabama's community and junior colleges is a wholesome student activities program which includes athletics for both women and men; and

WHEREAS, this legislative body encourages athletic programs for students who have the athletic ability to perform and excel, and who are interested in furthering their education; and

WHEREAS, because of excellent athletes and coaches, good organization, and college and community support, the Women's Basketball Team of Snead State Junior College has won the Alabama Junior College Conference-National Junior College Athletic Association Region XXII Championship, has been proclaimed 1991-92 State Champions, and represented Alabama in the NJCAA Women's National Tournament; and

WHEREAS, directing the Lady Parsons of Snead State Junior College to their many accomplishments of the 1991-92 season was Coach John Kitchens, whose leadership in athletics and character development has been recognized by his peers in his selection as NJCAA Region XXII Coach of the Year; and

WHEREAS, the Lady Parsons of Snead State Junior College are: Jana Simmons, who was selected as the All-Division Most Valuable Player, All-Region Most Valuable Player, All-Tournament Most Valuable Player, and a Region XXII All-American nominee; Jennifer Tinker, selected to the All-Division Team; Tammara Smith, selected to the All-Tournament Team; and their talented teammates, Sherry Kirk, Lori Longshore, Melissa Nix, Denise Moody, Jennifer Starkey, Amy Spears, Michelle Gordon, Amanda Tidmore, Lorrie Scott, and Melanie Smith, along with Lance Kitchens, Greg Maples and Eric White, who served as team managers; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate and commend Coach John Kitchens, his staff and the Snead State Junior College Lady Parsons for their accomplishments during the 1991-92 basketball season which have brought honor to Snead State Junior College, the Alabama College System and the State; and

BE IT FURTHER RESOLVED, That copies of this resolution be

forwarded to President William H. Osborn for appropriate presentation and display at Snead State Junior College.

On motion of Senator Mitchem, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Mitchem then requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 84. COMMENDING DR. ELLIS F. PORCH OF ARAB, ALABAMA, FOR OUTSTANDING SERVICE TO OTHERS.

WHEREAS, it is with highest commendation and esteem that the Legislature of Alabama recognizes Dr. Ellis F. Porch of Arab, Alabama, upon his retirement, following many years of outstanding contributions and service to his community and state; and

WHEREAS, Dr. Porch, a native of Union Grove, and a graduate of the University of Alabama School of Medicine, served as a flight engineer in the South Pacific during World War II, and was awarded the Distinguished Flying Cross and the Air Medal with Five Clusters; and

WHEREAS, Dr. Porch began the practice of medicine in Arab in 1954 and, over the course of the ensuing years, served his profession and community with dedicated devotion and commitment; and

WHEREAS, a distinguished member of the medical community, Dr. Porch, who remains actively involved in professional affiliations, has throughout his career, held countless positions of leadership including the presidency of the Marshall County Medical Society, membership on the Board of Trustees of the Medical Association of the State of Alabama, and the Admissions Committee of the University of Alabama Medical School, and service as team physician for athletic programs in the Arab schools for 27 years; and

WHEREAS, Dr. Porch, who was named Citizen of the Year by the Arab Chamber of Commerce, has been equally as committed to civic and community endeavors through tenures of service on the Board of Trustees for the Arab Schools, on the board of SouthTrust Bank of Marshall County, and as Chairman of the Board of Trustees for the Alabama Institute for the Deaf and Blind, which he continues to serve on both the Foundation Board and Board of Trustees; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions and service to his profession, community and state, and upon the occasion of his retirement, we hereby most highly commend Dr. Ellis F. Porch of Arab, Alabama, for whom a copy of this resolution shall be presented with sincere best wishes for every future happiness and success.

On motion of Senator Mitchem, the Rules were suspended and the Resolution was adopted by the Senate.

UNFINISHED BUSINESS BILLS ON THIRD READING

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 115. To establish the 1992 Emergency Medical Services Act of Alabama providing for a statewide emergency medical services system; and to repeal Sections 22-18-1 to 22-18-7, inclusive, of the Code of Alabama 1975.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 115, was postponed subject to the call of the Chair.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Parsons:

S. 544. To require hospitals to provide certain rate schedules and discount information to a person prior to admission, to require a hospital to charge no more than the lowest rate of the hospital if the information is not provided; and to permit the person and the Attorney General to seek certain injunctive relief.

Committee on Consumer Affairs

By Senator Mitchem (With Notice and Proof):

S. 545. To alter and rearrange the boundary lines and corporate limits of the municipality of Hammondville in DeKalb County to exclude certain territory.

Committee on Local
Legislation No. 1

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I hereby certify that the notice and proof is attached to the Bill, SB 545, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Corbett:

S. 546. To amend Section 27-40-2 of the Code of Alabama 1975, relating to insurance premium finance companies to exempt consumer finance companies licensed under Chapter 19, Title 5 of the Code of Alabama 1975, from regulation.

Committee on Economic Affairs

By Senators Lindsey and Parsons:

S. 547. To protect and preserve the property rights and interests of an absent, incapacitated, or missing owner of property under the provisions of Article 2 (commencing with Section 35-12-20) of Chapter 12 of Title 35 of the Code of Alabama 1975, and of those persons claiming for them, and to provide civil penalties for those who violate those rights and interests.

Committee on Economic Affairs

By Senator Ellis (With Notice and Proof):

S. 548. Relating to Shelby County; to establish a civil service system and provide for classified services; to establish a personnel board and provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 548, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senators Lindsey and Parsons:

S. 549. Relating to the annual licensing and bonding of busi-

nesses, individuals, firms, associations, partnerships, companies, or corporations engaged in the business of recovering or assisting in the recovery of lost or unclaimed property under the Uniform Disposition of Unclaimed Property Act, or any other property or outstanding obligation, whether or not monetary in nature; and providing for requirements for qualification of licensing; providing for penalties for violations; providing for rulemaking authority; and providing for the distribution of fees.

Committee on Economic Affairs

By Senators Corbett and Campbell:

S. 550. To amend Section 22-22A-2, Code of Alabama 1975, so as to establish and specify the powers and duties of the Office of Water Resources as a division of the Alabama Department of Environmental Management; to establish the Alabama Water Resources Commission; and to authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Committee on Economic Affairs

By Senator Dial:

S. 551. To amend Sections 8-22-8, 8-22-13, and 8-22-16, Code of Alabama 1975, the Motor Fuel Marketing Act to further provide for prices to meet the price of competitors, affidavits to support meeting the prices of a competitor under certain circumstances, and to provide criminal penalties.

Committee on Small Business

By Senator Dial:

S. 552. To amend Section 41-23-1, Code of Alabama 1975, to establish and specify the powers and duties of the Office of Water Resources as a division of the Department of Economic and Community Affairs; and to establish the Alabama Water Resources Commission and authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Committee on Industrial
Development and Expansion

By Senator Ellis:

S. 553. To further provide for commercial driver licensing; to

require the Director of Public Safety to implement retroactively to March 30, 1992, or on the first date authorized, a waiver for certain seasonal drivers from the knowledge and skill requirements of the commercial driver license to the extent and for the period authorized by federal law, rule, and regulation; and to provide that the waiver shall be cumulative to any other exception and shall appear with applicable endorsements on the commercial driver license pursuant to Section 32-6-49.7 of the Code of Alabama 1975.

Committee on Commerce,
Transportation, and Utilities

By Senator Waggoner:

S. 554. To amend Section 41-9-452 of the Code of Alabama 1975, to provide further for the duties and powers of the Alabama Sports Hall of Fame Board.

Committee on Public Welfare

By Senators Dixon, Langford, and Corbett:

S. 555. To appropriate certain funds to Tuskegee University.

Committee on Finance
and Taxation

By Senator Smith (J) (With Notice and Proof):

S. 556. Authorizing and empowering the Limestone County Commission to levy taxes on any sales of alcoholic beverages within the county.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 556, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Mitchell:

S. 557. Amending Section 27-1-18 of the Code of Alabama

1975, relating to health insurance contracts providing mental health services, requiring these contracts to reimburse the insured for certain services provided by clinical mental health counselors.

Committee on Governmental
Affairs/State Administration

By Senator Lindsey:

S. 558. Relating to the annual licensing and bonding of businesses, individuals, firms, associations, partnerships, companies, or corporations engaged in the business of recovering or assisting in the recovery of lost or unclaimed property under the Uniform Disposition of Unclaimed Property Act, or any other property or outstanding obligation, whether or not monetary in nature; and providing for requirements for qualification of licensing; providing for penalties for violations; providing for rulemaking authority; and providing for the distribution of fees.

Committee on Economic Affairs

By Senator Dial:

S. 559. To provide further for the tax liability for the sales and use of motor fuels and to amend Section 40-17-11, Code of Alabama 1975.

Committee on Finance
and Taxation

By Senator Ghee (With Notice and Proof):

S. 560. Providing for a legislative delegation office for Calhoun County and providing for retroactive effect.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 560, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bedsole (With Notice and Proof):

S. 561. To alter, rearrange, and redefine the boundaries and

corporate limits of the City of Mobile in Mobile County, Alabama, annexing certain territory, to-wit: as described herein, the Mobile Municipal Airport and certain areas surrounding the same, to the city; to provide for certain city ad valorem tax exemptions; to provide for municipal jurisdiction and reapportionment of certain city council district boundaries; and to provide for a referendum.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 561, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bedsole (With Notice and Proof):

S. 562. Relating to Mobile County; to amend Act No. 83-731, S. 377, 1983 Regular Session, which created the Mobile County Bingo Act, to provide further for the operation of bingo games in the county.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 562, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

REPORTS OF COMMITTEES

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Rep. Laird (With Substitute):

H. 164. To allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Mitchell, Ellis, Campbell, Denton, Dial, Little, Waggoner, Bolling, Owens, Preuit, Langford, Bennett, Foshee, Wilson, and Ghee:

S. 532. To prohibit any person from entering into agreements with governmental units regarding unclaimed or uncashed checks from other governmental units; and to provide penalties.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 539. Relating to motor vehicles; to prohibit inducing the buyer of a motor vehicle pursuant to a retail installment contract or the lessee of a motor vehicle pursuant to a lease contract from subleasing the motor vehicle without certain consent; to prohibit the offering for hire of motor vehicles subleased in violation of this act; and to provide penalties.

By Senator Windom:

S. 540. Relating to the preservation and development of coastal areas of this state; to declare a moratorium until January 1, 1995, on the permitting, construction, or expansion of any new or existing sanitary landfills in any county which contains coastal areas; and direct the Alabama Department of Environmental Management to conduct an environmental impact study during the moratorium period on the potential environmental impact that new sanitary landfills or expansions of existing sanitary landfills may have on the coastal waters, estuaries, and estuarine sanctuaries located in any county which contains coastal areas.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Bedsole, Windom, Figures, and Lipscomb (With Substitute):

S. 530. To propose an amendment to the Constitution of Alabama of 1901 to establish an education accountability team in Mobile County; to provide for the levy of an additional ad valorem tax to finance schools; and to provide penalties.

The above Bill was read a second time at length as required by the Constitution.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. Turner (With Notice and Proof) (With Amendment):

H. 22. Relating to Mobile County; to provide for the levy, collection, and distribution of an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county, and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Barron:

S. 543. To authorize the director of finance to establish a state employee injury compensation program and amend Sections 41-9-62 and 41-9-68, Code of Alabama 1975, related to the board of adjustment to make this new program the exclusive remedy for state employees who are injured while at work.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with amendments, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Parker (T) (With Amendments):

H. 249. To provide for the Franchise Tax Reform Act of 1992; to amend Sections 40-14-40, 40-14-41, 40-14-49, 40-14-52, 40-14-53, 40-14-56, and 10-2A-260 and 10-2A-261 of the Code of Alabama 1975; to repeal Sections 40-14-1 through 40-14-3, inclusive, 40-14-20 to 40-14-23, inclusive, 40-14-41.1, 40-14-42 to 40-14-48, inclusive, 40-14-50, 40-14-51, 40-14-54, 40-14-55, and 40-14-70 to 40-14-74, inclusive, Code of Alabama 1975.

By Rep. Parker (T) (With Amendments):

H. 251. To modify the tax imposed on the net income of corporations by repealing Code of Alabama (1975), Sections 40-16-1 through 40-16-8, 40-18-1 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to said tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of a single rate income tax based on federal taxable income; to provide transitional rules and elections to reflect differences between Alabama and federal law; to provide for the collection of the tax by payment with returns, and by estimated tax payments; to provide for the severability of any invalid provision; to repeal conflicting laws; and to provide for effective dates and contingencies.

MOTION TO ADJOURN

Senator Corbett moved that when the Senate adjourns today, it adjourn to meet again on Thursday, April 9, 1992, at 10 o'clock A.M., which motion was adopted.

RESOLUTION

Senator Waggoner offered the following Senate Joint Resolution, to-wit:

SJR 85. COMMENDING VESTAVIA HILLS HIGH SCHOOL ON ITS RECOGNITION AS THE BEST HIGH SCHOOL IN ALABAMA.

WHEREAS, it is with utmost pride that the Legislature of Alabama commends Vestavia Hills High School of Birmingham, Alabama, on its prestigious designation as the Best High School in Alabama; and

WHEREAS, Vestavia Hills High School was highlighted in the

April issue of Redbook magazine as a "Best of the States 51" winner in the periodical's America's Best Schools project, which was initiated to recognize innovative educational programs in schools across the country; and

WHEREAS, in the Redbook article, Vestavia Hills High School was cited as having "a superior academic program" resulting in college attendance by 92 percent of all seniors, and a specific reference was made to the more than \$4 million in scholarships awarded members of the class of 1991; and

WHEREAS, Vestavia Hills High School, in addition to this most recent honor for academic excellence, has also received national recognition for its math and debate teams, and was named one of our nation's Blue Ribbon Schools in 1991; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of extraordinary achievement, and upon its designation as the Best High School in Alabama in Redbook magazine's "Best Schools in America" program, we hereby most heartily commend Vestavia Hills High School, and do further direct that copies of this resolution be forwarded to Principal Michael Gross for appropriate presentation and school display.

On motion of Senator Waggoner, the Rules were suspended and the Resolution was adopted by the Senate.

FURTHER CONSIDERATION OF SB 54

The Senate proceeded to further consideration of the Bill:

S. 54. Relating to Bullock County; providing that the members of the county commission and county board of education shall run for election from four single-member districts and elected for staggered terms; providing that the chairman of each body shall run for election at-large; providing that the county commission shall develop said districts; and providing for a referendum.

having been postponed on the Eighth Legislative Day, was taken up.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 54, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Lindsey, B.I.R., SB 511, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 511. Relating to Clarke County government, to change the composition of the Clarke County Commission to provide that the Clarke County Commission shall consist of five members elected from five single-member districts, with the chairmanship to rotate among said five members; and said chairman shall preside at all meetings and shall be entitled to vote on all matters coming before the County Commission; to provide for the terms of said Commissioners, and to require that the members of the commission shall reside within the boundaries of each district; and repealing all conflicting laws.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Lindsey, B.I.R., SB 512, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial,

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Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 512. Relating to Clarke County; providing for the county board of education to consist of five members elected from five single-member school board districts; providing for the division of Clarke County into five single-member county school board districts; providing for the terms of office; and repealing all conflicting laws.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Floyd, B.I.R., SB 414, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Floyd, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Waggoner, Wilson, and Windom -25

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 414. Relating to Etowah County; providing for the funding,

operation, upkeep, and maintenance of the county-wide jail, juvenile facilities, work release center facilities, and support facilities.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Floyd, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Ellis, B.I.R., SB 445, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Smith (J) -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 445. Relating to Shelby County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

was read a third time at length and passed, and ordered sent forthwith to the House.

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Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Smith (J) -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Lindsey, B.I.R., SB 517, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 517. Relating to Choctaw County; to ratify, confirm, and validate ab initio all water, sewer, gas, or electric systems in Choctaw County acquired by boards organized under Article 9, Chapter 50, Title 11 of the Code of Alabama 1975, as amended; and to give retroactive effect.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Lindsey, B.I.R., HB 602, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Wilson, and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 602. Relating to Washington County; to alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Chatom in Washington County, Alabama.

was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 510, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Campbell, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Wilson -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 510. To alter, rearrange and extend the boundary lines and corporate limits of the City of Pickensville in Pickens County.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Campbell, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Wilson -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Campbell, B.I.R., SB 524, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bennett, Campbell, deGraffenried, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 524. Relating to the sheriff's compensation and expense allowances paid, in good faith, by the Tuscaloosa County commission or other county officer pursuant to Act Numbers 79-719 and 79-720 of the 1979 Regular Session (Acts 1979, p. 1274), which acts provided for such expense allowances; ratifying, validating and confirming the actions of the county commission and any other county officer retroactively to August 8, 1979, and continuing thereafter; relieving any liability for

repayment by such officials; providing that the provisions of this act shall be construed in *pari materia* with any other laws relating to compensation or expense allowances or salary for the sheriff and specifically with the provisions of Act No. 87-454, S. 570 of the 1987 Regular Session (Act 1987, p. 683).

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bennett, Campbell, deGraffenried, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Ghee, B.I.R, HB 631, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 631. To propose a constitutional amendment relating to the volunteer fire departments, fire protection, and emergency services in Calhoun County and the levy and collection of additional special ad valorem taxes for the fire protection and emergency services, pursuant to Amendment 425 of the Constitution of 1901.

was taken up.

The Standing Committee on Local Legislation No. 1 reported the

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following amendment to the Bill, HB 631, to-wit:

AMENDMENT TO HB 631

Amend House Bill 631 on page 2, line 33 by striking after the word "the" the following:

"volunteer emergency services", and inserting in lieu thereof the following:

"emergency medical service authority"

Further amend on page 4, line 5 by striking after the word "any" the following:

"volunteer emergency service", and inserting in lieu thereof the following:

"emergency medical service or emergency medical authority"

Which was adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

And said Bill, HB 631, as thus amended, was read a third time at length as required by the Constitution and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Bedsole requested and received permission to suspend the

Rules in order to bring up the following Bill, SB 351.

Senator Bedsole, B.I.R., SB 351, adopted.

Yeas 19 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Campbell, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, and Windom -19

Nay: Senator Dial

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 351. To amend Section 11-50-342 of the Code of Alabama 1975, relating to the membership of the board of water and sewer commissioners so as to provide further for an increase in said membership.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 17 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Campbell, Corbett, Dial, Ghee, Hale, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (J), and Windom -17

Nay: Senator Figures

- 1

BUDGET ISOLATION RESOLUTION

Senator Bedsole then requested and received permission to suspend the Rules in order to bring up the following Bill, SB 211.

Senator Bedsole, B.I.R., SB 211, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Dial, Ellis, Figures, Floyd, Ghee,

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Hale, Langford, Lindsey, Mitchell, Owens, Parsons, Preuitt, Smith (J),
and Windom -18

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 211. To amend Sections 11-98-1, 11-98-2, 11-98-4, 11-98-5, and 11-98-6 of the Code of Alabama 1975, relating to emergency telephone service and communication districts; to provide further for the service areas, the structure and powers of the board of commissioners, and the type of emergency service.

was taken up.

Senator Dial offered the following amendment to the Bill, SB 211, to-wit:

AMENDMENT TO SB 211

On page 6, after line 24, insert the following language:

two dollars (\$2) or

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Denton, Dial, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Langford, Owens, Parsons, Smith (B), Smith (J), and Windom -18

Nays: - 0

Senator Corbett offered the following amendment to the Bill, SB 211, as amended, to-wit:

AMENDMENT TO SB 211, AS AMENDED

Amend Senate Bill No. 211, as amended, on Page 6 Line 34, as follows:

delete the "." period and

insert

"and shall refund all collections made during this 36 months period of time."

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Floyd, Ghee, Hale, Langford, Little, Parsons, Preuit, Smith (B), Smith (J), and Windom -19

Nays:

- 0

Senator Corbett then offered the following amendment No. 2 to the Bill, SB 211, as amended, to-wit:

AMENDMENT NO. 2 TO SB 211, AS AMENDED

Amend Senate Bill No. 211, as amended, on Page 8, Line 18, as follows:

after the number "~~60~~" delete "20" and insert in lieu thereof: "30"

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Floyd, Ghee, Hale, Langford, Little, Parsons, Preuit, Smith (B), Smith (J), and Windom -19

Nays:

- 0

And said Bill, SB 211, as thus amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon,

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**Figures, Hale, Langford, Little, Mitchell, Mitchem, Owens, Parsons,
Preuitt, Smith (B), Smith (J), and Windom** -20

Nays: - 0

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 86. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the twentieth legislative day of the 1992 Regular Session only:

Page

S. 222 47

Intrastate motor carriers, trucks, restrictions relaxed, Secs. 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21, 37-3-22 am'd.; Sec. 37-3-14 repealed

Senator Parsons offered the following substitute for the Resolution, SR 86, to-wit:

SUBSTITUTE FOR SR 86

SR 86. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills shall be the paramount and continuing order of business taking precedence over all other matters for the twentieth legislative day of the 1992 Regular Session only:

Page

S. 261 34

Clinic Insurance Bill

S. 222 47

Intrastate motor carriers, trucks, restrictions relaxed, Secs. 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21, 37-3-22 am'd.; Sec. 37-3-14 repealed

On motion of Senator Preuitt, said substitute was laid on the table.

Yeas 17 Nays 10

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Corbett, Denton, Dial, Ellis,
Floyd, Foshee, Horn, Langford, Little, Preuit, Smith (B), Smith (J),
and Waggoner -17

Nays:

Senators:

Amari, Bailey, Bolling, Dixon, Hale, Lipscomb, Mitchell, Owens,
Parsons, and Windom -10

And on motion of Senator Preuit, the Resolution was adopted by
the Senate.

BUDGET ISOLATION RESOLUTION

Senator Hilliard, B.I.R., SB 222, adopted.

Yeas 20 Nays 9

Abstaining 1

Yeas:

Senators:

Barron, Bedsole, Bolling, Campbell, Denton, Dial, Ellis, Floyd, Ghee,
Hale, Hilliard, Horn, Lipscomb, Little, Mitchell, Mitchem, Owens,
Preuit, Smith (J), and Windom -20

Nays:

Senators:

Bailey, Bennett, Corbett, Dixon, Figures, Langford, Parsons,
Waggoner, and Wilson - 9

Abstaining: Senator Foshee

- 1

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the special, paramount,
and continuing order of business for today, which was the Bill:

S. 222. Relating to the Alabama Public Service Commission;
amending Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17,
37-3-21 and 37-3-22 of the Code of Alabama 1975, relating to motor
vehicle carriers, so as to provide further for the regulation of such
carriers and repealing Section 37-3-14 of the Code of Alabama 1975,

which relates to the dual operations by motor vehicle carriers.

The Standing Committee on Commerce, Transportation, and Utilities reported the following substitute for the Bill, SB 222, to-wit:

SUBSTITUTE FOR SB 222

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Public Service Commission; amending Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, relating to motor vehicle carriers, so as to provide further for the regulation of the carriers and repealing Section 37-3-14 of the Code of Alabama 1975, which relates to the dual operations by motor vehicle carriers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, are amended to read as follows:

"§37-3-10.

"(a) No common carrier by motor vehicle subject to the provisions of this chapter shall engage in intrastate commerce on any highway in this state unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the commission pursuant to the provisions of this chapter authorizing such operation. The application for such certificate shall be decided in accordance with the procedure provided in section 37-3-11, and such certificate shall be issued or denied accordingly. No common carrier of passengers holding a certificate of public convenience and necessity issued to it by the commission shall be required to apply for a certificate under this chapter, but such certificate held and effective shall be effective as if issued under this chapter, but this shall not be construed or held to relieve the holder of such certificate from complying with all other provisions of this chapter and any and all laws now or hereafter in effect.

"(b) Application for certificates to transport passengers, household goods, or petroleum products in bulk shall be made in writing to the commission, be verified under oath and shall be in such form and

contain such information and be accompanied by proof of service of notice thereof upon such interested parties as the commission shall, by regulation, require; provided, that the commission shall give notice of the filing of any such application upon the state highway department and, ~~in the case of an application for a certificate to transport passengers,~~ upon each common carrier of passengers, household goods or petroleum products in bulk then operating or proposing to operate by application pending before the commission in the territory proposed to be served; ~~and, in the case of an application for a certificate to transport freight,~~ upon each common carrier of freight then operating or proposing to operate by application pending before the commission in the territory proposed to be served.

"(c) Application for certificates to transport property, other than passengers, household goods, or petroleum products in bulk shall be made in writing to the commission and be in such form and contain such information as the commission shall, by regulation, require."

"§37-3-11.

~~"(a) Subject to the provisions of section 37-3-14 and to the provisions of subsection (b) of this section, a~~ A certificate shall be issued to any qualified applicant for a certificate to transport passengers, household goods, or petroleum products in bulk therefor, authorizing the whole or any part of the operations covered by the application, if it is found, after public hearing of the application, that the applicant is fit, willing and able to properly perform the service proposed and to conform with the provisions of this chapter and requirements, rules and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate is or will be required by the present or future public convenience and necessity; otherwise, such application shall be denied; provided, that no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes and between fixed termini, except as such carriers may be authorized to engage in special or charter operations. ~~(b) Before granting a certificate to a common carrier of passengers, household goods, or petroleum products in bulk by motor vehicle, the commission shall, among other things, consider the following:~~

"(1) Whether existing transportation service of all kinds is adequate to meet the reasonable public needs;

"(2) The financial ability of the applicant to furnish adequate, continuous and uninterrupted service the year around; and

"(3) The advantages to the public of the proposed service.

"(b) A certificate for transportation of property, other than passengers, household goods, or petroleum products in bulk shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able to properly perform the service proposed and to conform with the provisions of this chapter and requirements, rules and regulations of the commission thereunder, otherwise, such application shall be denied."

"§37-3-13.

"(a) No person shall engage in the business of a contract carrier by motor vehicle in intrastate commerce on any highway of this state unless there is in force with respect to such carrier a permit issued by the commission, authorizing such person to engage in such business. The application for such permit shall be decided in accordance with the procedure provided for in subsection (b) or (c) of this section, and such permit shall be issued or denied accordingly.

"(b) Application for ~~such~~ permits to transport passengers, households goods, or petroleum products in bulk shall be made to the commission in writing, be verified under oath and shall be in such form and contain such information as the commission may, by regulation, require. Such application for permit shall be accompanied by such proof of service of notice of said application and the filing thereof with the commission as the commission shall by regulation require. Notice of such application by every contract carrier of passengers, household goods, or petroleum products in bulk shall be served ~~upon every contract carrier of passengers, and such notice of application by contract carriers of property shall be served~~ on every such carrier of property then operating in the territory proposed to be served by the applicant and upon every other applicant then having an application pending before the commission for a permit to operate in the territory proposed to be served by the applicant and upon the state highway department. ~~Subject to section 37-3-14, a~~ A permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if, after public hearing of the application, it appears from the application and the evidence in support thereof or from any hearing held thereon that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with

the public interest, otherwise such application shall be denied. The commission shall specify on the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance and from time to time thereafter, such reasonable rules, terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the commission under this chapter; provided, that subject to such reasonable regulations as the commission may prescribe, the carrier may substitute or add contracts, within the scope of his permit, or add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require.

~~"(c) Contract carriers of property shall not transport on any one motor vehicle over any highway in this state, outside of the corporate limits of any city, town or municipality, property of more than two consignors at the same time, and, for the purposes of this section, the word "consignors" means the bona fide owner of the property transported at the time of shipment, who has made the contract for shipment with the carrier.~~

"(c) Application for permits to transport property, other than passengers, household goods, or petroleum products in bulk shall be made to the commission in writing and shall be in such form and contain such information as the commission shall, by regulation, require. A permit shall be issued to any qualified applicant therefor, authorizing in whole or any part of the operation covered by the application if it is found that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the commission thereunder; otherwise such application shall be denied. The commission shall specify on the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance and from time to time thereafter, such reasonable rules, terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the commission under this chapter; provided, that subject to such reasonable regulations as the commission may prescribe, the carrier may substitute or add contracts, within the scope of the permit, or to add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require."

"(a) No person shall for compensation sell or offer for sale transportation subject to this chapter or shall make any contract, agreement or arrangement to provide, procure, furnish or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation or otherwise as one who sells, provides, procures, contracts or arranges for such transportation, unless such person holds a broker's license issued by the commission to engage in such transactions; provided, that no such person shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. ~~In the execution of any contract agreement or arrangement to sell, provide, procure, furnish or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who or which is not the lawful holder of an effective certificate or permit issued as provided in this chapter; and provided further, that the provisions of this paragraph shall not apply to any carrier holding a certificate or a permit under the provisions of this chapter or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits or with a common carrier by railroad, express or water.~~

"(b) A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found, ~~after public hearing of the application,~~ that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the commission thereunder, ~~and the proposed service, to the extent authorized by the license, is or will be consistent with the public interest and the provisions of this chapter;~~ otherwise, such application shall be denied.

"(c) The commission shall prescribe reasonable rules and regulations for the protection of travellers or shippers and receivers of property by motor vehicle operated by motor carriers subject to this chapter, to be observed by any person holding a brokerage license, and no such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the commission, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements or arrangements therefor.

"(d) The commission and its special agents and examiners shall have the same authority as to accounts, reports and records, including inspection and preservation thereof, of any person holding a brokerage license issued under the provisions of this section, that they have under

this chapter with respect to motor carriers subject thereto.

"(c) The word 'transportation,' as used in this section, means the transportation of property by carriers other than common carriers of passengers."

"§37-3-17.

~~"Subject to the provisions of section 37-3-14, any~~ Any certificate or permit may be transferred or leased pursuant to such rules and regulations as the commission may prescribe; provided, that no such certificate or permit shall be transferred, or lease of any such certificate or permit approved, except after a finding by the commission that the proposed transferee or lessee is in all respects qualified under the provisions of this chapter to conduct the service or operation contemplated by such certificate or permit ~~and that the proposed transfer or the approval of said lease is consistent with the public interest."~~

"§37-3-21.

"(a) It shall be the duty of every contract carrier of passengers, household goods, or petroleum products in bulk by motor vehicle to file with the commission, publish and keep open for public inspection, in the form and manner prescribed by the commission, schedules or, in the discretion of the commission, copies of contracts containing the minimum charges of such carrier for the transportation of passengers or property in intrastate commerce in this state and any rule, regulation or practice affecting such charges and the value of the service thereunder. No such contract carrier, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property in intrastate commerce in this state unless the minimum charges for such transportation by said carrier have been published, filed and posted in accordance with the provisions of this chapter. No reduction shall be made in any such charge either directly or by means of any change in any rule, regulation or practice affecting such charge or the value of service thereunder, except after 20 days' notice of the proposed change filed in the aforesaid form and manner; but the commission may, in its discretion and for good cause shown, allow such change upon less notice or modify the requirements of this subsection with respect to posting and filing of such schedules or copies of contracts either in particular instances or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and time when such change will take effect. No such carrier shall demand, charge or collect a less compensation for such transportation than the charges filed in accordance with this sub-

section, as affected by any rule, regulation or practice so filed or as may be prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charges so filed or prescribed; provided, that any such carrier or carriers, or any class or group thereof, may apply to the commission for relief from the provisions of this subsection, and the commission may after hearing grant such relief to such an extent and for such time and in such manner as in its judgment is consistent with public interest and the provisions of this chapter.

"(b) Contract carriers of property, other than passengers, household goods, or petroleum products in bulk may elect to follow the provisions of subsection (a) of this section or they may elect to enter into rate and service contracts with shippers and receivers provided that the contract carrier has been issued a permit of authority to engage in transportation as a contract carrier from the commission and has on file in its office an executed transportation contract with the shipper or receiver for the transportation service to be provided and provided that a copy of such rate and service contracts will be mailed to the commission as information, however, such contracts and rates will not require commission approval. Carriers that elect to enter into confidential rate and service contracts under this subsection will not be subject to the 20 day notice of proposed changes as provided in subsection (a) of this section.

~~"(b)~~ (c) Whenever, after hearing upon complaint or its own initiative, the commission finds that any charge of any contract carrier by motor vehicle or any rule, regulation or practice of any such carrier or carriers affecting such charge, or the value of the service thereunder, for the transportation of passengers or property in intrastate commerce in this state is not consistent with the public interest, the commission may prescribe such minimum charge or such rule, regulation or practice as in its judgment may be necessary or desirable in the public interest. Such minimum charge or such rule, regulation or practice so prescribed by the commission shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this chapter, which the commission may find to be undue or inconsistent with public interest, and the commission shall give due consideration to the cost of the service rendered by such carriers and to the effect of such minimum charge or such rules, regulations or practices, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

~~"(c)~~ (d) Whenever there shall be filed with the commission by

any such contract carrier any schedule or contract stating a reduced charge directly or by means of any rule, regulation or practice for the transportation of passengers or property in intrastate commerce, the commission is hereby authorized and empowered upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answers or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge or such rule, regulation or practice, and, pending such hearing and the decision thereon, the commission, by filing with such schedule or contract and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract and defer the use of such charge or such rule, regulation or practice for a period of 90 days, and, if the proceeding has not been concluded and a final order made within such period, the commission may from time to time extend the period of such suspension, but not for a longer period in the aggregate than 180 days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge or rule, regulation or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding had not been concluded and an order made within the period of suspension, the proposed change in any charge, rule, regulation or practice shall go into effect at the end of such period."

"§37-3-22.

"(a) The commission is hereby authorized to require annual, periodical or special reports from all motor carriers, to prescribe the manner and form in which such reports shall be made and to require from such carrier specific answers to all questions upon which the commission may deem information to be necessary. Such reports shall be under oath whenever the commission so requires. The commission may also require any motor vehicle carrier of passengers, household goods, or petroleum products in bulk to file with it a true copy of each or any contract, agreement or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter, to which he or it may be a party. Contract carriers that elect to enter into contracts under provisions of Section 37-3-21(b) will be required to mail to the commission copies of its contracts and rates, however, such contracts and rates do not require commission approval. Contract carriers electing to enter into rate and service contracts under the provisions of Section 37-3-21(b) may construct contracts and schedules of rates and charges in any manner or format that is acceptable to and meets the requirements of the parties to the contract.

"(b) The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by motor carriers and the length of time such accounts, records and memoranda shall be preserved, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of money. The commission or its duly authorized agents shall at all times have access to all lands, buildings or equipment of motor carriers used in connection with intrastate operations and also all accounts, records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept, or required to be kept, by motor carriers. The agents of the commission shall have authority under its order to inspect and examine any and all such lands, buildings, equipment, accounts, records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept or required to be kept by such carriers; this provision shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the commission, to persons having control, directly or indirectly, over or affiliated with any motor carriers.

"(c) As used in this section, the term 'motor carrier' includes brokers."

Section 2. Section 37-3-14 of the Code of Alabama 1975, relating to dual operations of motor vehicle carriers, is repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator Corbett offered the following substitute for the Committee substitute for the Bill, SB 222, to-wit:

SUBSTITUTE FOR SUBSTITUTE FOR SB 222

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Public Service Commission; amending Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, relating to motor vehicle carriers, so as to provide further for the regulation of the carriers and repealing Section 37-3-14 of the Code of Alabama 1975, which relates to the dual operations by motor vehicle carriers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15,

37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, are amended to read as follows:

"§37-3-10.

"(a) No common carrier by motor vehicle subject to the provisions of this chapter shall engage in intrastate commerce on any highway in this state unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the commission pursuant to the provisions of this chapter authorizing such operation. The application for such certificate shall be decided in accordance with the procedure provided in section 37-3-11, and such certificate shall be issued or denied accordingly. No common carrier of passengers holding a certificate of public convenience and necessity issued to it by the commission shall be required to apply for a certificate under this chapter, but such certificate held and effective shall be effective as if issued under this chapter, but this shall not be construed or held to relieve the holder of such certificate from complying with all other provisions of this chapter and any and all laws now or hereafter in effect.

"(b) Application for certificates to transport passengers, household goods, or petroleum products in bulk shall be made in writing to the commission, be verified under oath and shall be in such form and contain such information and be accompanied by proof of service of notice thereof upon such interested parties as the commission shall, by regulation, require, provided, that the commission shall give notice of the filing of any such application upon the state highway department and,
~~in the case of an application for a certificate to transport passengers, upon each common carrier of passengers, household goods or petroleum products in bulk then operating or proposing to operate by application pending before the commission in the territory proposed to be served, and, in the case of an application for a certificate to transport freight, upon each common carrier of freight then operating or proposing to operate by application pending before the commission in the territory proposed to be served.~~

"(c) Application for certificates to transport property, other than passengers, household goods, or petroleum products in bulk shall be made in writing to the commission and be in such form and contain such information as the commission shall, by regulation, require."

"§37-3-11.

~~"(a) Subject to the provisions of section 37-3-14 and to the~~

~~provisions of subsection (b) of this section, a~~ A certificate shall be issued to any qualified applicant for a certificate to transport passengers, household goods, or petroleum products in bulk therefor, authorizing the whole or any part of the operations covered by the application, if it is found, after public hearing of the application, that the applicant is fit, willing and able to properly perform the service proposed and to conform with the provisions of this chapter and requirements, rules and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate is or will be required by the present or future public convenience and necessity; otherwise, such application shall be denied; provided, that no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes and between fixed termini, except as such carriers may be authorized to engage in special or charter operations. ~~(b)~~ Before granting a certificate to a common carrier of passengers, household goods, or petroleum products in bulk by motor vehicle, the commission shall, among other things, consider the following:

"(1) Whether existing transportation service of all kinds is adequate to meet the reasonable public needs;

"(2) The financial ability of the applicant to furnish adequate, continuous and uninterrupted service the year around; and

"(3) The advantages to the public of the proposed service.

"(b) A certificate for transportation of property, other than passengers, household goods, or petroleum products in bulk shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing and able to properly perform the service proposed and to conform with the provisions of this chapter and requirements, rules and regulations of the commission thereunder, otherwise, such application shall be denied."

"§37-3-13.

"(a) No person shall engage in the business of a contract carrier by motor vehicle in intrastate commerce on any highway of this state unless there is in force with respect to such carrier a permit issued by the commission, authorizing such person to engage in such business. The application for such permit shall be decided in accordance with the procedure provided for in subsection (b) or (c) of this section, and such permit shall be issued or denied accordingly.

"(b) Application for such permits to transport passengers, households goods, or petroleum products in bulk shall be made to the commission in writing, be verified under oath and shall be in such form and contain such information as the commission may, by regulation, require. Such application for permit shall be accompanied by such proof of service of notice of said application and the filing thereof with the commission as the commission shall by regulation require. Notice of such application by every contract carrier of passengers, household goods, or petroleum products in bulk shall be served ~~upon every contract carrier of passengers, and such notice of application by contract carriers of property shall be served~~ on every such carrier of property then operating in the territory proposed to be served by the applicant and upon every other applicant then having an application pending before the commission for a permit to operate in the territory proposed to be served by the applicant and upon the state highway department. ~~Subject to section 37-3-14, a~~ A permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if, after public hearing of the application, it appears from the application and the evidence in support thereof or from any hearing held thereon that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest, otherwise such application shall be denied. The commission shall specify on the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance and from time to time thereafter, such reasonable rules, terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the commission under this chapter; provided, that subject to such reasonable regulations as the commission may prescribe, the carrier may substitute or add contracts, within the scope of his permit, or add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require.

~~"(c) Contract carriers of property shall not transport on any one motor vehicle over any highway in this state, outside of the corporate limits of any city, town or municipality, property of more than two consignors at the same time, and, for the purposes of this section, the word "consignors" means the bona fide owner of the property transported at the time of shipment, who has made the contract for shipment with the carrier.~~

"(c) Application for permits to transport property, other than

passengers, household goods, or petroleum products in bulk shall be made to the commission in writing and shall be in such form and contain such information as the commission shall, by regulation, require. A permit shall be issued to any qualified applicant therefor, authorizing in whole or any part of the operation covered by the application if it is found that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the commission thereunder; otherwise such application shall be denied. The commission shall specify on the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance and from time to time thereafter, such reasonable rules, terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the commission under this chapter; provided, that subject to such reasonable regulations as the commission may prescribe, the carrier may substitute or add contracts, within the scope of the permit, or to add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require."

"§37-3-15.

"(a) No person shall for compensation sell or offer for sale transportation subject to this chapter or shall make any contract, agreement or arrangement to provide, procure, furnish or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation or otherwise as one who sells, provides, procures, contracts or arranges for such transportation, unless such person holds a broker's license issued by the commission to engage in such transactions; provided, that no such person shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. ~~In the execution of any contract agreement or arrangement to sell, provide, procure, furnish or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who or which is not the lawful holder of an effective certificate or permit issued as provided in this chapter; and provided further, that the provisions of this paragraph shall not apply to any carrier holding a certificate or a permit under the provisions of this chapter or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits or with a common carrier by railroad, express or water.~~

"(b) A brokerage license shall be issued to any qualified applicant

therefor, authorizing the whole or any part of the operations covered by the application, if it is found, ~~after public hearing of the application, that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the commission thereunder, and the proposed service, to the extent authorized by the license, is or will be consistent with the public interest and the provisions of this chapter;~~ otherwise, such application shall be denied.

"(c) The commission shall prescribe reasonable rules and regulations for the protection of travellers or shippers and receivers of property by motor vehicle operated by motor carriers subject to this chapter, to be observed by any person holding a brokerage license, and no such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the commission, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements or arrangements therefor.

"(d) The commission and its special agents and examiners shall have the same authority as to accounts, reports and records, including inspection and preservation thereof, of any person holding a brokerage license issued under the provisions of this section, that they have under this chapter with respect to motor carriers subject thereto.

"(e) The word 'transportation,' as used in this section, means the transportation of property by carriers other than common carriers of passengers."

"§37-3-17.

~~"Subject to the provisions of section 37-3-14, any~~ Any certificate or permit may be transferred or leased pursuant to such rules and regulations as the commission may prescribe; provided, that no such certificate or permit shall be transferred, or lease of any such certificate or permit approved, except after a finding by the commission that the proposed transferee or lessee is in all respects qualified under the provisions of this chapter to conduct the service or operation contemplated by such certificate or permit ~~and that the proposed transfer or the approval of said lease is consistent with the public interest."~~

"§37-3-21.

"(a) It shall be the duty of every contract carrier of passengers, household goods, or petroleum products in bulk by motor vehicle to file

with the commission, publish and keep open for public inspection, in the form and manner prescribed by the commission, schedules or, in the discretion of the commission, copies of contracts containing the minimum charges of such carrier for the transportation of passengers or property in intrastate commerce in this state and any rule, regulation or practice affecting such charges and the value of the service thereunder. No such contract carrier, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property in intrastate commerce in this state unless the minimum charges for such transportation by said carrier have been published, filed and posted in accordance with the provisions of this chapter. No reduction shall be made in any such charge either directly or by means of any change in any rule, regulation or practice affecting such charge or the value of service thereunder, except after 20 days' notice of the proposed change filed in the aforesaid form and manner; but the commission may, in its discretion and for good cause shown, allow such change upon less notice or modify the requirements of this subsection with respect to posting and filing of such schedules or copies of contracts either in particular instances or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and time when such change will take effect. No such carrier shall demand, charge or collect a less compensation for such transportation than the charges filed in accordance with this subsection, as affected by any rule, regulation or practice so filed or as may be prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charges so filed or prescribed; provided, that any such carrier or carriers, or any class or group thereof, may apply to the commission for relief from the provisions of this subsection, and the commission may after hearing grant such relief to such an extent and for such time and in such manner as in its judgment is consistent with public interest and the provisions of this chapter.

"(b) Contract carriers of property, other than passengers, household goods, or petroleum products in bulk may elect to follow the provisions of subsection (a) of this section or they may elect to enter into rate and service contracts with shippers and receivers provided that the contract carrier has been issued a permit of authority to engage in transportation as a contract carrier from the commission and has on file in its office an executed transportation contract with the shipper or receiver for the transportation service to be provided and provided that a copy of such rate and service contracts will be mailed to the commission as information, however, such contracts and rates will not require commission approval. Carriers that elect to enter into confidential rate

and service contracts under this subsection will not be subject to the 20 day notice of proposed changes as provided in subsection (a) of this section.

"(b) (c) Whenever, after hearing upon complaint or its own initiative, the commission finds that any charge of any contract carrier by motor vehicle or any rule, regulation or practice of any such carrier or carriers affecting such charge, or the value of the service thereunder, for the transportation of passengers or property in intrastate commerce in this state is not consistent with the public interest, the commission may prescribe such minimum charge or such rule, regulation or practice as in its judgment may be necessary or desirable in the public interest. Such minimum charge or such rule, regulation or practice so prescribed by the commission shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this chapter, which the commission may find to be undue or inconsistent with public interest, and the commission shall give due consideration to the cost of the service rendered by such carriers and to the effect of such minimum charge or such rules, regulations or practices, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

"(c) (d) Whenever there shall be filed with the commission by any such contract carrier any schedule or contract stating a reduced charge directly or by means of any rule, regulation or practice for the transportation of passengers or property in intrastate commerce, the commission is hereby authorized and empowered upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answers or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge or such rule, regulation or practice, and, pending such hearing and the decision thereon, the commission, by filing with such schedule or contract and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract and defer the use of such charge or such rule, regulation or practice for a period of 90 days, and, if the proceeding has not been concluded and a final order made within such period, the commission may from time to time extend the period of such suspension, but not for a longer period in the aggregate than 180 days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge or rule, regulation or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding had not been concluded and an

order made within the period of suspension, the proposed change in any charge, rule, regulation or practice shall go into effect at the end of such period."

"§37-3-22.

"(a) The commission is hereby authorized to require annual, periodical or special reports from all motor carriers, to prescribe the manner and form in which such reports shall be made and to require from such carrier specific answers to all questions upon which the commission may deem information to be necessary. Such reports shall be under oath whenever the commission so requires. The commission may also require any motor vehicle carrier of passengers, household goods, or petroleum products in bulk to file with it a true copy of each or any contract, agreement or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter, to which he or it may be a party. Contract carriers that elect to enter into contracts under provisions of Section 37-3-21(b) will be required to mail to the commission copies of its contracts and rates, however, such contracts and rates do not require commission approval. Contract carriers electing to enter into rate and service contracts under the provisions of Section 37-3-21(b) may construct contracts and schedules of rates and charges in any manner or format that is acceptable to and meets the requirements of the parties to the contract.

"(b) The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by motor carriers and the length of time such accounts, records and memoranda shall be preserved, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of money. The commission or its duly authorized agents shall at all times have access to all lands, buildings or equipment of motor carriers used in connection with intrastate operations and also all accounts, records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept, or required to be kept, by motor carriers. The agents of the commission shall have authority under its order to inspect and examine any and all such lands, buildings, equipment, accounts, records and memoranda, including all documents, papers and correspondence now or hereafter existing and kept or required to be kept by such carriers; this provision shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the commission, to persons having control, directly or indirectly, over or affiliated with any motor carriers.

"(c) As used in this section, the term 'motor carrier' includes brokers."

Section 2. Section 37-3-14 of the Code of Alabama 1975, relating to dual operations of motor vehicle carriers, is repealed.

Section 3. This act shall become effective on January 1, 1995.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bills and House Joint Resolution, your signature thereto is requested.

H. 224. To amend Section 12-2-7, to give the Alabama Court of Civil Appeals exclusive and final jurisdiction of appeals of decisions affecting the tenure of employees of public schools; To amend Section 12-2-2, to provide that the justices of the Supreme Court, shall not have authority to issue writs of certiorari in matters of tenure of employees of the public schools, and to grant exclusive jurisdiction to the Court of Civil Appeals; To amend Section 12-3-10, to require that appeals of decisions affecting the tenure of employees of public schools shall receive preferential and expedited review over certain other civil cases within the exclusive jurisdiction of the Alabama Court of Civil Appeals.

Also:

H. 230. To repeal Section 40-1-32.1 of the Code of Alabama 1975, entitled the Proration Prevention Act of 1988.

Also:

H. 236. To amend Section 41-19-3, Code of Alabama 1975, in order to further provide for effective management of state governmental operations.

Also:

H. 254. To provide further for the administrative procedures of the revenue department relating to the taxpayers' rights concerning refunds, penalties, assessments and appeals; to establish new uniform procedures for the administration of taxes administered by the department of revenue; to amend certain sections of Titles 11, 22, 32, 35 and 40 and to repeal certain sections of Titles 9, 22, 32 and 40, Code of Alabama 1975, relating to specific procedures for specific taxes, so as to standardize procedures for administering the revenue laws and to remove certain ambiguities and conflicts; to provide further for penalties; and to provide an effective date.

Also:

H. 468. To amend Section 25-4-72, Code of Alabama 1975, as amended, relating to unemployment compensation weekly benefit, so as to increase the maximum of such benefit.

Also:

HJR 158. COMMENDING R. JOHN SAMANIEGO OF TUSCALOOSA, ALABAMA, AS THE 1991 OUTSTANDING FRATERNAL ORDER OF POLICE MEMBER OF THE YEAR.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS AND RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills and House Joint Resolution, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 602. Relating to Washington County; to alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Chatom in Washington County, Alabama.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

FURTHER CONSIDERATION OF SB 222

The Senate proceeded to further consideration of the Bill, SB 222. The question was on the Corbett substitute for the Committee substitute.

On motion of Senator Horn, the Rules were suspended and further consideration of the Bill, SB 222, and pending substitutes, was postponed temporarily.

BILLS RE-REFERRED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the Bills, SB's 452 and 457, and ordered same returned to the Senate with the recommendation that they be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bills, SB's 452 and 457 re-referred to the Standing Committee on Public Welfare.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 211. To amend Sections 11-98-1, 11-98-2, 11-98-4, 11-98-5, and 11-98-6 of the Code of Alabama 1975, relating to emergency telephone service and communication districts; to provide further for the service areas, the structure and powers of the board of commissioners, and the type of emergency service.

JIM PREUITT,
Chairperson.

FURTHER CONSIDERATION OF SB 222

The Senate proceeded to further consideration of the Bill, SB 222. The question was on the Corbett substitute for the Committee substitute.

On motion of Senator Hilliard, the Rules were suspended and further consideration of the Bill, SB 222, and pending substitutes, was postponed subject to the call of the Chair.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Harper, Flowers, and Harvey:

H. 614. To provide for the funding and operation of the medicaid program by requiring the transfer of moneys from publicly-owned hospitals to the Alabama Mothers and Babies Indigent Care Trust Fund; to authorize the Alabama Medicaid Agency to determine, pursuant to regulation, the amount of transfers due; to provide for the collection of the moneys and penalties, and for the maintenance of records by the hospitals; and to provide that this act shall remain effective only so long as adequate federal financial participation in the medicaid program is available.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 614 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Harper, Flowers, and Harvey:

H. 615. To further provide for the privilege tax on nursing facilities and hospitals and to amend Sections 40-26B-20, 40-26B-21, 40-26B-25, 40-26B-40, 40-26B-41, 40-26B-43, and 40-26B-45, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 615 - to the Committee on Finance and Taxation

FURTHER CONSIDERATION OF SB 222

The Senate proceeded to further consideration of the Bill, SB 222. The question was on the Corbett substitute for the Committee substitute.

On motion Senator Wilson, the Rules were suspended and further consideration of the Bill, SB 222, and pending substitutes, was postponed subject to the call the Chair.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 115, adopted.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bolling, deGraffenried, Denton, Dixon, Ellis, Figures, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Preuitt, Sanders, Waggoner, Wilson, and Windom -22

Nays:

Senators:

Amari and Little

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FURTHER CONSIDERATION OF SB 115

The Senate proceeded to further consideration of the Bill, SB 115.

The Standing Committee on Health reported the following substitute for the Bill, SB 115, to-wit:

SUBSTITUTE FOR SB 115**A BILL
TO BE ENTITLED
AN ACT**

To establish the 1992 Emergency Medical Services Act of Alabama

providing for a statewide emergency medical services system; to provide penalties for violations; and to repeal Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as "The 1992 Emergency Medical Services Act of Alabama."

Section 2. The following words and phrases used in this act shall have the following meanings:

(1) **ADEQUATE FUNDING.** Sufficient funds made available to individual emergency medical services providers to purchase and maintain vehicles, equipment, and training necessary to comply with the statewide emergency medical services standards.

(2) **ADVANCED LIFE SUPPORT.** The treatment of life-threatening medical emergencies through the use of invasive medical techniques which are contained in the training curriculum approved by and specified as advanced life support techniques by the State Board of Health.

(3) **AIR AMBULANCE.** Any aircraft that is intended to be used for and is maintained or operated for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(4) **AMBULANCE.** Any motor vehicle that is intended to be used for and is maintained or operated for transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(5) **AMBULANCE DRIVER.** An individual who drives or otherwise operates an ambulance.

(6) **BASIC LIFE SUPPORT.** Prehospital rescue and the treatment of medical emergencies by emergency medical technicians using techniques for first aid and resuscitation which are contained in the training curriculum approved by the board for the emergency medical technician basic level of competency.

(7) **BOARD.** The Alabama State Board of Health.

(8) **CONTINUING EDUCATION.** An educational program designed to update knowledge and skills through participation in conventions, seminars, workshops, educational classes, labs, symposiums, and

other training programs.

(9) **CONVALESCENT VEHICLE.** A vehicle that is used for making non-emergency calls such as scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests, or is used for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or for other non-emergency calls.

(10) **DESIGNATED TRAINING PROGRAMS.** Educational programs certified by the board which provide primary or continuing education.

(11) **EMERGENCY MEDICAL SERVICES SYSTEM.** An approved methodology, including the arrangement of personnel, facilities, and equipment, for the delivery of medical care under emergency conditions.

(12) **EMERGENCY MEDICAL TECHNICIAN.** An individual who is authorized to provide patient care as provided by the board and who possesses a valid license issued pursuant to this act.

(13) **FACILITY.** Any structure or building, or portion thereof, including, but not limited to, a hospital emergency department, where patients are treated or from which medical control physicians issue orders to be implemented by prehospital personnel.

(14) **IN-SERVICE TRAINING.** A course of training approved by the board that is conducted by a licensed provider for its personnel.

(15) **MEDICAL DIRECTOR.** The State Emergency Medical Services Medical Director appointed pursuant to Section 8.

(16) **NON-TRANSPORT PAID SERVICE.** A prehospital service which provides medical care at the scene of an emergency, but does not transport the patient from the scene, whose personnel are paid for their services.

(17) **NON-TRANSPORT VOLUNTEER SERVICE.** A prehospital service which provides medical care at the scene of an emergency, but which does not transport the patient from the scene; such a service does not financially compensate its personnel nor does it seek reimbursement from patients for the medical care it renders.

(18) **ON-LINE MEDICAL CONTROL PHYSICIAN.** A physi-

cian holding a current license from the medical licensure commission of Alabama who issues advanced life support orders to prehospital personnel from within a health care facility authorized to issue such orders under a plan or procedure approved by the board.

(19) **ON-LINE MEDICAL DIRECTOR (OR BASE STATION DIRECTOR).** A physician holding a current license from the medical licensure commission of Alabama practicing at a properly authorized health care facility, who has been given the overall responsibility for quality assurance and control of the physicians who provide medical orders and scene management orders via radio/telephone to prehospital personnel caring for patients in the field.

(20) **PATIENT.** An individual who receives or requests emergency medical care, or for whom emergency medical care is requested, because the individual is sick, injured, wounded, or otherwise incapacitated or helpless.

(21) **PHYSICIAN.** An individual licensed to practice medicine by the Medical Licensure Commission of Alabama.

(22) **PHYSICIAN ADVISOR (OFF-LINE MEDICAL CONTROL).** A physician holding a current license from the medical licensure commission of Alabama who provides medical guidance and who oversees and provides quality assurance and medical liaison for an emergency medical services service.

(23) **QUALITY ASSURANCE.** An organized method of auditing and evaluating system performance.

(24) **REGIONAL AGENCY.** The agency or institution recognized or designated by the board as the agency responsible for the coordination and implementation of a regional emergency medical services system.

(25) **REGIONAL MEDICAL DIRECTOR OR OFF-LINE REGIONAL MEDICAL DIRECTOR.** A physician holding a current license from the medical licensure commission of Alabama who is responsible for the overall medical supervision of a regional emergency medical services system.

Section 3. The board is hereby designated as the state's lead agency. It is hereby directed to establish and maintain a comprehensive emergency medical services system for the state and shall adopt rules necessary to effectuate the purposes of this act, after such rules, policies,

and procedures have first been considered by the State Emergency Medical Services Advisory Committee. The board shall establish graded levels of personnel and shall establish standards for patient transport vehicles, ambulances, medical equipment, and medical care. The board shall establish education, training, and performance requirements for licensure of prehospital personnel including ambulance drivers and emergency medical technicians at all levels and shall issue a license to each applicant meeting the requirements set forth in this act. No license shall be required of personnel who complete a United States Department of Transportation approved first responder course who do not perform or offer services other than those covered in the course. Each individual license issued shall be valid for a period of 24 months. The fee for each individual license or renewal shall be ten dollars (\$10), but individuals who gratuitously provide services for volunteer rescue squads or volunteer fire departments shall not be required to pay a fee to obtain or renew a license. The board may issue annual licenses for the operation of ambulance services. The fee for a license to operate an ambulance service shall be twenty-five dollars (\$25) per annum. The fees for all licenses shall remain at these levels through December 31, 1994. The board may increase license fees after this date not more often than biannually by an amount not to exceed 10 percent of the fees in effect at the time of the proposed increase. Members of the Alabama Association of Rescue Squads and other nonprofit services shall be exempt from the fees for issuance of a license to operate an ambulance service. All revenues collected under this act shall be deposited to the credit of the board and are appropriated to the board to implement this act and to administer the rules established pursuant to it. Subject to the contested case provisions of the Alabama Administrative Procedure Act, licenses and authorizations issued pursuant to this act may be suspended or revoked in the discretion of the board upon proof of the violation of this act or any rule adopted hereunder, or upon proof that a licensee's actions or inactions were detrimental to public health or to the health or safety of a patient.

Section 4. (a) The six regional emergency medical services agencies as designated by the board at the time of adoption of this act, are hereby designated as the regional emergency medical services agencies for their respective regions unless and until such designation is rescinded or modified by the board as provided below. The boundaries of the existing agencies shall remain as they exist on the effective date of this legislation. After appropriate notice and utilizing the rulemaking provisions of the Alabama Administrative Procedure Act, the board may change regional boundaries based upon the advice of the boards of the affected regional agencies. After appropriate notice and utilizing the rulemaking provisions of the Alabama Administrative Procedure Act, the

board may withdraw a regional emergency medical services agency's designation, provided, however, that such withdrawal may be based only upon the regional emergency medical services agency's lack of accountability as defined below. A regional emergency medical services agency's designation may only be withdrawn after proper warning by the board. Any proposed changes affecting regional emergency medical services agencies must first have been considered by the State Emergency Medical Services Advisory Committee.

(b) The accountability of the regions to the board means adherence to the approved state emergency medical services plan and approved budgets. The Department of Public Health shall contract with the designated regional emergency medical services agencies to implement and coordinate the approved state emergency medical services plan. If a region's boundary or designated agency changes, the affected agency's funding shall be withdrawn, reduced, or increased accordingly.

(c) Each regional emergency medical services agency shall administer an approved state emergency medical services plan, developed jointly by the board and the regional emergency medical services agencies as described below.

(d) The designated regional emergency medical services agencies shall assist the board with activities necessary to plan and coordinate effective emergency medical services systems within their respective regions. The approved state emergency medical services plan shall be developed and approved in the following manner:

(1) The format of the plan shall be established by the board in consultation with the regional emergency medical services agencies.

(2) Each regional emergency medical services agency shall develop its regional emergency medical services plan and shall hold at least two public hearings before the regional emergency medical services agency governing body adopts the plan.

(3) The plan shall be submitted to the board on or before February 1, 1993, and approved or returned to the region with suggestions within sixty days. If at any time the plan is returned to the region by the board because of disapproval, an amended plan shall be submitted to the board within sixty days.

(e) Effective with the 1993 fiscal year, monies appropriated annually by the Legislature to the regional emergency medical services agencies shall hereafter be appropriated to the board of health, which

shall contract with the designated regional emergency medical services agencies, to fulfill the functions described above. The total amount provided each regional emergency medical services agency through this funding arrangement shall not be less than 1991 fiscal year (\$1,900,572 total for all six agencies divided equally among them), unless reduced by the Legislature or proration. In the event the Legislature or proration reduces such funding, each regional emergency medical services agency's portion of the total appropriation shall be reduced by the same percentage. If the board of health withdraws a regional agency's designation or modifies an agency's boundaries, following appropriate procedures, including those in the Alabama Administrative Procedure Act, the affected regional emergency medical services agency's funding shall be withdrawn, reduced, or increased accordingly. Beginning with the budgets for the 1994 fiscal year, the regional emergency medical services agencies shall develop budgets based on available funding and on needs and objectives congruent to a statewide emergency medical services plan. These budgets shall be submitted to the State Health Officer for approval. The State Health Officer shall approve a region's budget based upon the budget's conformance to the approved state emergency medical services plan. In the event that the State Health Officer does not approve an item in a region's proposed budget, he or she shall nevertheless approve that portion of the budget which conforms to the emergency medical services plan and funds shall be disbursed to cover the approved portion of the budget.

(f) All funds over and above the state funding levels approved by the Legislature for the regional emergency medical services agencies during the 1991 fiscal year shall be distributed as follows:

(1) Not more than eight percent shall be allocated to the board of health to administer the program.

(2) Fifty percent of the remainder of the additional funds, calculated after allocation of the funds described in subdivision (1) of this section, shall be divided equally among the regional emergency medical services agencies.

(3) From the remainder of the additional funds, calculated after allocation of the funds described in subdivision (1) of this section, 25 percent shall be divided proportionately among the regional emergency medical services agencies based upon square mileage, and 25 percent shall be divided proportionately among the regional emergency medical services agencies based upon the population within the boundaries of each regional emergency medical services agency. Of the total amount allocated to each regional emergency medical services agency over and

above the state funding levels approved by the Legislature during the 1992 fiscal year, not more than eight percent may be expended by each such regional emergency medical services agency to administer the regional emergency medical services program. The remainder of the funds shall be applied to meet emergency medical services training and equipment needs, as established within the regional plans approved by the board.

Section 5. The regional emergency services agency governing boards shall be representative of all elements of the emergency medical services system, including consumers, paid and volunteer providers, physicians, hospitals, and elected officials. Every county within the region shall be represented. Each region shall have a regional emergency medical control committee chaired by the regional emergency medical services medical director and comprised of the on-line emergency medical services medical director of each hospital providing medical control, other medical control physicians and physician advisors, as deemed appropriate by the regional emergency medical services medical director, one hospital administrator representing hospitals participating in the regional emergency medical services system, one emergency medical technician paramedic representing advanced life support ambulance services, and one emergency medical technician paramedic representing advanced life support non-transport medical rescue services. Each region shall appoint a regional emergency medical services medical director who shall be a physician with experience and knowledge in emergency medical services. The regional emergency medical services medical director shall be appointed by the governing board of the regional agency. The appointment shall be subject to approval by the board. Each emergency medical services provider shall have a physician advisor. The medical credentials necessary for the appointment of physician advisors in each region shall be approved by the board. The appointment of physician advisors shall be recommended by the emergency medical services provider and shall be approved by the regional emergency medical services medical director. Changes in the appointment of the physician advisor by an emergency medical services provider shall not be made without the approval of the regional emergency medical services medical director.

Section 6. The existing State Emergency Medical Control Committee shall continue its activities. It shall coordinate and mediate medical and accountability activities among the regional emergency medical services systems. Members of the State Emergency Medical Control Committee shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office at the rate provided by state law. The chair of the State

Emergency Medical Control Committee shall, as needed, establish subcommittees of the State Emergency Medical Control Committee comprised of representatives from ambulance, fire, rescue, and other emergency medical services as needed. After the effective date of this act, the State Emergency Medical Control Committee shall be composed as follows:

- (1) The regional emergency medical services medical directors.
- (2) One member appointed by the Alabama Chapter of the American College of Emergency Physicians in the event that none of the regional emergency medical services medical directors are active members of American College of Emergency Physicians.
- (3) One member appointed by the Alabama Committee on Trauma of the American College of Surgeons in the event that none of the regional emergency medical services medical directors are active members of the American College of Surgeons.
- (4) One member appointed by the Alabama Chapter of the American Academy of Pediatrics in the event that none of the regional emergency medical services medical directors are active members of the American Academy of Pediatrics.
- (5) The State Emergency Medical Services Medical Director, who shall serve as the chair.
- (6) The State Trauma Coordinator if a physician is designated as the coordinator by the board or pursuant to other procedure established by law.

Section 7. (a) The existing State Emergency Medical Services Advisory Committee shall continue its activities. Its purpose is to provide to the State Health Officer, the State Emergency Medical Services Medical Director, and the State Committee on Public Health assistance and input into the formulation of all rules necessary to implement this act. The State Emergency Medical Services Advisory Committee shall meet at least annually and at other times at the call of the State Health Officer. Members of the State Emergency Medical Services Advisory Committee shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office at the rate provided by state law. The State Emergency Medical Services Advisory Committee shall elect for a three-year term one of its members to serve as chair who shall not be eligible to serve consecutive terms. After the effective date of this act, the State Emer-

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gency Medical Services Advisory Committee shall be composed as follows:

- (1) One member appointed by the Alabama Hospital Association.**
- (2) One member appointed by the Alabama Ambulance Association.**
- (3) One member appointed by the Alabama Association of Rescue Squads.**
- (4) One member who shall be a paramedic firefighter appointed by the Professional Firefighters Association of Alabama.**
- (5) One member who shall be a emergency medical technician firefighter appointed by the Alabama Association of Volunteer Fire Departments.**
- (6) One member appointed by the Alabama Association of Fire Chiefs.**
- (7) Two members appointed by the Alabama Council on Emergency Medical Services to represent the regional agencies.**
- (8) One member appointed by the board.**
- (9) One member appointed by the Aeromedical Services Committee of the Alabama Hospital Association.**
- (10) One member appointed by the Alabama Chapter of the American College of Emergency Physicians.**
- (11) One member appointed by the Alabama Committee on Trauma of the American College of Surgeons.**
- (12) One member appointed by the Alabama Chapter of the American Academy of Pediatrics.**
- (13) One member appointed by the Medical Association of the State of Alabama.**
- (14) One member appointed by the Alabama Department of Economic and Community Affairs, Highway Traffic and Safety Program.**
- (15) One member appointed by the Director of the Department of Public Safety.**

(16) One member from a state approved paramedic training school who shall be appointed by the Alabama Society of Emergency Medical Services Instructors.

(17) One member who shall be an emergency medical technician appointed by the Professional Emergency Medical Technician Association recognized by the board.

(18) One member appointed by the Alabama Chapter of the Emergency Nurses Association.

(19) One member appointed by the Alabama League of Municipalities.

(20) One member appointed by the Association of County Commissioners of Alabama.

(21) One member appointed by the Alabama Emergency Management Council.

(22) One member appointed by the Alabama Nurses Association.

(23) One member appointed by the Alabama Firefighters Association.

(b) With the consent of the majority of the members of the State Emergency Medical Services Advisory Committee, the chair shall set requirements for proxy representation and voting and the establishment of a quorum. Members shall serve staggered terms of office of three years, according to a formula to be determined by the board, or until their successors are appointed. Any vacancy shall be filled in the same manner as provided for the original appointment.

Section 8. The State Emergency Medical Services Medical Director shall be appointed by the State Committee of Public Health upon the recommendation of the State Health Officer and shall be a physician with extensive knowledge and experience in emergency medical services. The State Emergency Medical Services Medical Director shall provide overall medical direction to the statewide emergency medical services system. With the guidance of the State Emergency Medical Control Committee, the State Emergency Medical Services Medical Director shall recommend rules governing medical control and accountability which must be approved by the board. The State Emergency Medical Services Medical Director shall be accountable to the State Health Officer on all matters pertaining to the statewide emergency

medical services system.

Section 9. (a) With the advice of the State Emergency Medical Control Committee and the State Emergency Medical Services Advisory Committee in their respective areas as specified below, the board shall adopt rules to effectuate the purposes of this act. The State Emergency Medical Control Committee shall address issues pertaining to medical control and the activities of prehospital personnel. This shall include, at a minimum, field studies, procedures, treatment protocols, approval of intravenous fluids and drugs for field use, continuing education requirements, and quality assurance. The State Emergency Medical Services Advisory Committee shall address issues pertaining to licensure of prehospital personnel and ambulance services. This shall include, at a minimum, educational requirements for licensure, requirements for recertification, educational programs, equipment and personnel standards for ambulances and ambulance services, and quality assurance. The State Emergency Medical Control Committee shall meet at least annually and at other times at the call of the State Emergency Medical Services Medical Director or the State Health Officer. Administrative responsibility for the emergency medical services program is vested in the board. The board may establish special committees as it deems appropriate.

(b) The board may by rule designate certain procedures as "advanced life support techniques," which may be performed by emergency medical technicians during emergencies, including, but not limited to, situations where the life, health, or safety of a prehospital patient is in immediate jeopardy. The board may prescribe by rule the qualifications and certifications necessary for personnel performing advanced life support techniques and the specific conditions under which the techniques may be performed by non-physicians. Notwithstanding any statutory provision to the contrary, emergency medical service personnel who possess the necessary qualifications and certifications prescribed by the board shall not be deemed to have engaged in the unlawful practice of medicine when performing advanced life support techniques in accordance with the constraints established by the board.

(c) Quality assurance and similar materials, as used in this section, shall include: written reports, records, correspondence, and materials concerning the quality assurance or similar function of any hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program. The confidentiality established by this section shall apply to materials prepared by an employee, advisor, or consultant of a hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program and materials prepared by an

employee, advisor, or consultant of a quality assurance of similar agency or similar body and to any individual who is an employee, advisor, or consultant of a hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program, quality assurance, or similar agency or body.

(d) All quality assurance and similar materials shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a health care professional, institution, or emergency medical services service rising out of matters which are the subject of evaluation and review for quality assurance and similar functions, purposes, or activities. No person involved in the preparation, evaluation or review of quality assurance or similar materials shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the course of preparation, evaluation, or review of such materials or as to any finding, recommendation, evaluation, opinion, or other action of such quality assurance or similar function or other person involved therein. Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or for use in any civil action merely because they were presented or used in preparation of quality assurance or similar materials. Nor should any person involved in preparation, evaluation, or review of such materials be prevented from testifying, but should not be asked about any opinions or data given by him or her in preparation, evaluation, or review of quality assurance or similar materials. Peer review is considered to be an integral part of quality assurance. To meet the requirements of this section, all quality assurance processes shall be a part of the approved State Emergency Medical Services Plan.

Section 10. The designated emergency medical services training programs shall follow the emergency medical services rules established by the board and shall assist the board with the planning, coordination, evaluation, and implementation of activities necessary to foster the development and maintenance of the emergency medical services educational system. The board shall approve primary education programs and continuing education training courses for prehospital personnel. The board shall establish minimum standards for primary education and continuing education training courses for prehospital personnel. The qualifications of instructors of training courses for prehospital personnel shall be established by rule of the board or shall be established by its authorized agents pursuant to requirements established by it. All training courses shall be taught by properly certified or approved instructors.

Section 11. (a) All prehospital personnel shall be licensed as

required to practice their profession. Any person desiring licensure as an emergency medical technician shall complete an approved emergency medical technician course, shall successfully pass the appropriate level licensure exam, and shall submit an application to the board. Any individual in possession of a valid emergency medical technician or ambulance driver license on the effective date of this act shall retain his or her current level of licensure without further being required to successfully pass any additional licensure examination so long as the license held remains in good standing. A license shall be valid for a period of two years and may be renewed subject to the holder meeting the renewal requirements set forth by the board. Methods of satisfying the requirements for license renewal shall include either of the following:

(1) Completion of a formal refresher course approved by the board.

(2) Completion of a minimum number of continuing education units approved by the board, but any increase in the minimum required number of hours of continuing education in effect on the effective date of this act shall be furnished without charge to prehospital personnel for any direct training costs including, but not limited to, tuition, registration, or course fee.

(b) The board may suspend or revoke a license so issued at any time it is determined that the holder has done any of the following:

(1) No longer meets the prescribed qualifications.

(2) Is guilty of misconduct as defined by a rule of the board or otherwise commits a serious and material violation of the rules.

(3) Has failed to maintain the required level of continuing education units.

(4) Has provided care to a prehospital patient which falls short of the standard of care which ordinarily would be expected to be provided by similarly situated emergency medical services personnel in Alabama, and has thereby jeopardized the life, health, or safety of a patient.

(5) Has submitted a license application, a report of continuing education requirements, a run report, or any other document which is material to the duties and qualifications of emergency medical services personnel and which is willfully false or fraudulent in any respect.

(6) Has committed fraud in the performance of his or her duties

or in connection with any matter related to emergency medical services in Alabama.

(7) Has been convicted of a crime involving moral turpitude, unless the board determines that the fact of the conviction would not be likely to interfere with the performance of emergency medical services duties.

(8) Has committed other misconduct which is prejudicial to the performance of emergency medical services duties and which gives the board adequate and reasonable cause to take adverse licensure action.

Section 12. All of the following vehicles are exempted from this act:

(1) Ambulances and air ambulances owned, operated, or staffed by the state or federal government.

(2) A vehicle or vehicles rendering assistance to community ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services.

(3) A vehicle or vehicles owned by a business which offers assistance exclusively to its employees who are injured or who otherwise require emergency medical assistance while on company property.

Section 13. Except as provided in Section 14, a prehospital emergency medical services operation found by the board to be noncompliant with this act shall not be eligible for the funding assistance provided by this act until the board determines that operation to be compliant.

Section 14. All members of the Alabama Association of Rescue Squads and all volunteer emergency medical services services previously exempted from, or heretofore not regulated by, Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975, and all other state laws pertaining to emergency medical services regulation, shall be exempt from any and all provisions of this act, including rules, regulations, certifications, policies, and procedures. Said exemption shall remain in effect until adequate funding is made available. Once adequate funding is made available, members of the Alabama Association of Rescue Squads and all volunteer emergency medical services services previously exempt shall have an 18-month grace period to come into compliance with statewide emergency medical services training standards. Compliance will be determined on a service-by-service basis upon the recom-

mentation of the Alabama Association of Rescue Squads and the State Emergency Medical Services Advisory Committee. Should adequate funding cease, then compliance with statewide emergency medical services rules, regulations, certifications, policies, and procedures related to vehicles, equipment, and training shall cease until such time as adequate funding is made available.

Section 15. The board and the regional emergency medical services agencies shall develop a comprehensive statewide emergency medical services plan to facilitate the delivery of adequate emergency medical services to every citizen. Nothing in this act, in the rules adopted thereunder, or in any other provision of Alabama law shall be construed to give the board authority to require a volunteer fire department, a county, a municipality, or any other organization to operate an ambulance service.

Section 16. A licensed emergency medical technician may perform any function consistent with licensure, pursuant to rules adopted by the board. Vehicles manned by prehospital personnel, who are trained to provide advanced life support and who possess current board licensure, may carry a drug kit containing limited quantities of drugs, including controlled substances, which have been approved by the board for administration to patients during the regular course of duties of the prehospital personnel. Notwithstanding the foregoing, drugs may be administered only upon the order of a physician licensed within this state, and who is, at the time the order is given, functioning in accordance with the applicable regional medical control plan approved by the board. Emergency medical technicians may not perform services pursuant to standing orders from physicians without prior approval of the board. Emergency medical technicians may accept standing orders only if they meet the qualifications prescribed by the board on the recommendation of the State Emergency Medical Control Committee and the State Health Officer. Emergency medical technicians may accept orders to perform advanced life support techniques only from medical control physicians who have completed medical control training prescribed by the board on the recommendation of the State Emergency Medical Control Committee and the State Health Officer.

Section 17. It shall be a Class A misdemeanor for any person, firm, company, corporation, organization, facility, or agency to do any of following:

(1) Hinder, obstruct, or interfere with an officer, inspector, or duly authorized agent of the board while in the performance of official duties.

(2) Hinder, obstruct, or interfere with any physician, nurse, licensed emergency personnel, or emergency personnel exempt from licensure under this act while the individual is providing emergency care to a third person.

(3) Offer, provide, or perform, without a valid, current license or certificate to do so, an emergency medical services or other function which, under this act or the rules adopted pursuant thereto, may not be performed without a license or certificate issued by the board. Notwithstanding the foregoing, no person shall be subject to criminal liability pursuant to this section in the event he or she renders first aid or emergency care at the scene of an accident, casualty, or disaster if the first aid or emergency care is rendered gratuitously and in good faith and the first aid or emergency care is not rendered in the course of a business, program, or system which regularly engages in emergency medical care. Nothing in this subsection shall be construed to repeal, abridge, or modify Section 6-5-332, Code of Alabama 1975, or any other good samaritan statute.

Section 18. In implementing its duties and responsibilities under this act, the board shall comply with the Alabama Administrative Procedure Act.

Section 19. Title to all emergency medical equipment previously purchased by regional agencies with funds appropriated by the State of Alabama shall be heretofore presumed to have vested in the ambulance service, rescue squad, first responder, fire department, or other provider having possession of the equipment on July 1, 1992. The regional emergency medical services agency can rebut this presumption by demonstrating that transfer of possession of the equipment to the provider was undertaken with the intent that title to the equipment remain vested in the regional emergency medical services agency. The rebuttal shall be supported by written documentation including, but not limited to, a lease or loan agreement.

Section 20. Neither this act nor rules of the board adopted thereunder shall apply to fire departments which offer only basic life support and do not transport. Notwithstanding the foregoing, this act and regulations adopted thereunder shall govern only the emergency medical services functions of fire departments and shall not apply to their firefighting functions or other functions. A fire department which merely offers cardiopulmonary resuscitation and other first aid and rescue in the course of firefighting and related operations shall not be deemed for that reason alone to be subject to this act.

Section 21. All laws or parts of law which conflict with this act

including, but not limited to, Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975, are repealed. All rules adopted under the authority of code sections repealed by this act shall remain in effect until repealed by rules adopted under the authority of this act. All regional medical control and accountability plans previously adopted and approved by the board shall remain in effect until approval is withdrawn by the board or until new or amended plans are approved by the board.

Section 22. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 23. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

The Standing Committee on Health then reported the following amendment to the substitute for the Bill, SB 115, to-wit:

AMENDMENT TO SUBSTITUTE FOR SB 115

Amend the substitute for Senate Bill No. 115, on Page 1, Line 8, as follows:

Strike the words "State Board of Health" and insert in lieu thereof "Alabama State Committee of Public Health"

Further amend the substitute for SB 115 on Page 2, Line 22, by striking the words "State Board of Health" and insert in lieu thereof "State Committee of Public Health"

Further amend the substitute for SB 115 on Page 3, Line 5, by striking the words "State Board of Health" and insert in lieu thereof "State Committee of Public Health"

Further amend the substitute for SB 115 on Page 8, Line 28, by striking the words "board of health" and insert in lieu thereof "State Committee on Public Health"

On motion of Senator deGraffenried, said amendment was laid on the table.

The Standing Committee on Health then reported the following amendment No. 2, to the substitute for the Bill, SB 115, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE
FOR SB 115**

Amend the substitute for Senate Bill No. 115, on Page 3, Line 29, as follows:

by striking the word and comma "including," and by striking the word "not"

On motion of Senator deGraffenried, said amendment was laid on the table.

And on motion of Senator deGraffenried, said substitute was then laid on the table.

Senator deGraffenried then offered the following substitute for the Bill, SB 115, to-wit:

SUBSTITUTE FOR SB 115**A BILL
TO BE ENTITLED
AN ACT**

To establish the 1992 Emergency Medical Services Act of Alabama providing for a statewide emergency medical services system; to provide penalties for violations; and to repeal Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as "The 1992 Emergency Medical Services Act of Alabama."

Section 2. The following words and phrases used in this act shall have the following meanings:

(1) **ADEQUATE FUNDING.** Sufficient funds made available to individual emergency medical services providers to purchase and maintain vehicles, equipment, and training necessary to comply with the statewide emergency medical services standards.

(2) **ADVANCED LIFE SUPPORT.** The treatment of life-threatening medical emergencies through the use of invasive medical techniques which are contained in the training curriculum approved by and specified as advanced life support techniques by the State Committee

of Public Health.

(3) **AIR AMBULANCE.** Any aircraft that is intended to be used for and is maintained or operated for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(4) **AMBULANCE.** Any motor vehicle that is intended to be used for and is maintained or operated for transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(5) **AMBULANCE DRIVER.** An individual who drives or otherwise operates an ambulance.

(6) **BASIC LIFE SUPPORT.** Prehospital rescue and the treatment of medical emergencies by emergency medical technicians using techniques for first aid and resuscitation which are contained in the training curriculum approved by the board for the emergency medical technician basic level of competency.

(7) **BOARD.** The State Committee of Public Health.

(8) **CONTINUING EDUCATION.** An educational program designed to update knowledge and skills through participation in conventions, seminars, workshops, educational classes, labs, symposiums, and other training programs.

(9) **CONVALESCENT VEHICLE.** A vehicle that is used for making non-emergency calls such as scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests, or is used for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or for other non-emergency calls.

(10) **DESIGNATED TRAINING PROGRAMS.** Educational programs certified by the board which provide primary or continuing education.

(11) **EMERGENCY MEDICAL SERVICES SYSTEM.** An approved methodology, including the arrangement of personnel, facilities, and equipment, for the delivery of medical care under emergency conditions.

(12) **EMERGENCY MEDICAL TECHNICIAN.** An individual who has completed the course of training prescribed by the State Committee of Public Health and who possesses a valid license issued pursu-

ant to this act. Notwithstanding the foregoing, this act shall not authorized an Emergency Medical Technician to practice medicine or nursing in a hospital.

(13) **FACILITY.** Any structure or building, or portion thereof, but limited to, a hospital emergency department, where patients are treated or from which medical control physicians issue orders to be implemented by prehospital personnel.

(14) **IN-SERVICE TRAINING.** A course of training approved by the board that is conducted by a licensed provider for its personnel.

(15) **MEDICAL DIRECTOR.** The State Emergency Medical Services Medical Director appointed pursuant to Section 8.

(16) **NON-TRANSPORT PAID SERVICE.** A prehospital service which provides medical care at the scene of an emergency, but does not transport the patient from the scene, whose personnel are paid for their services.

(17) **NON-TRANSPORT VOLUNTEER SERVICE.** A prehospital service which provides medical care at the scene of an emergency, but which does not transport the patient from the scene; such a service does not financially compensate its personnel nor does it seek reimbursement from patients for the medical care it renders.

(18) **ON-LINE MEDICAL CONTROL PHYSICIAN.** A physician holding a current license from the medical licensure commission of Alabama who issues advanced life support orders to prehospital personnel from within a health care facility authorized to issue such orders under a plan or procedure approved by the board.

(19) **ON-LINE MEDICAL DIRECTOR (OR BASE STATION DIRECTOR).** A physician holding a current license from the medical licensure commission of Alabama practicing at a properly authorized health care facility, who has been given the overall responsibility for quality assurance and control of the physicians who provide medical orders and scene management orders via radio/telephone to prehospital personnel caring for patients in the field.

(20) **PATIENT.** An individual who receives or requests emergency medical care, or for whom emergency medical care is requested, because the individual is sick, injured, wounded, or otherwise incapacitated or helpless.

(21) **PHYSICIAN.** An individual licensed to practice medicine

by the Medical Licensure Commission of Alabama.

(22) **PHYSICIAN ADVISOR (OFF-LINE MEDICAL CONTROL).** A physician holding a current license from the medical licensure commission of Alabama who provides medical guidance and who oversees and provides quality assurance and medical liaison for an emergency medical services service.

(23) **QUALITY ASSURANCE.** An organized method of auditing and evaluating system performance.

(24) **REGIONAL AGENCY.** The agency or institution recognized or designated by the board as the agency responsible for the coordination and implementation of a regional emergency medical services system.

(25) **REGIONAL MEDICAL DIRECTOR OR OFF-LINE REGIONAL MEDICAL DIRECTOR.** A physician holding a current license from the medical licensure commission of Alabama who is responsible for the overall medical supervision of a regional emergency medical services system.

Section 3. The board is hereby designated as the state's lead agency. It is hereby directed to establish and maintain a comprehensive emergency medical services system for the state and shall adopt rules necessary to effectuate the purposes of this act, after such rules, policies, and procedures have first been considered by the State Emergency Medical Services Advisory Committee. The board shall establish graded levels of personnel and shall establish standards for patient transport vehicles, ambulances, medical equipment, and medical care. The board shall establish education, training, and performance requirements for licensure of prehospital personnel including ambulance drivers and emergency medical technicians at all levels and shall issue a license to each applicant meeting the requirements set forth in this act. No license shall be required of personnel who complete a United States Department of Transportation approved first responder course who do not perform or offer services other than those covered in the course. Each individual license issued shall be valid for a period of 24 months. The fee for each individual license or renewal shall be ten dollars (\$10), but individuals who gratuitously provide services for volunteer rescue squads or volunteer fire departments shall not be required to pay a fee to obtain or renew a license. The board may issue annual licenses for the operation of ambulance services. The fee for a license to operate an ambulance service shall be twenty-five dollars (\$25) per annum. The fees for all licenses shall remain at these levels through December 31, 1994. The

board may increase license fees after this date not more often than biannually by an amount not to exceed 10 percent of the fees in effect at the time of the proposed increase. Members of the Alabama Association of Rescue Squads and other nonprofit services shall be exempt from the fees for issuance of a license to operate an ambulance service. All revenues collected under this act shall be deposited to the credit of the board and are appropriated to the board to implement this act and to administer the rules established pursuant to it. Subject to the contested case provisions of the Alabama Administrative Procedure Act, licenses and authorizations issued pursuant to this act may be suspended or revoked in the discretion of the board upon proof of the violation of this act or any rule adopted hereunder, or upon proof that a licensee's actions or inactions were detrimental to public health or to the health or safety of a patient.

Section 4. (a) The six regional emergency medical services agencies as designated by the board at the time of adoption of this act, are hereby designated as the regional emergency medical services agencies for their respective regions unless and until such designation is rescinded or modified by the board as provided below. The boundaries of the existing agencies shall remain as they exist on the effective date of this legislation. After appropriate notice and utilizing the rulemaking provisions of the Alabama Administrative Procedure Act, the board may change regional boundaries based upon the advice of the boards of the affected regional agencies. After appropriate notice and utilizing the rulemaking provisions of the Alabama Administrative Procedure Act, the board may withdraw a regional emergency medical services agency's designation, provided, however, that such withdrawal may be based only upon the regional emergency medical services agency's lack of accountability as defined below. A regional emergency medical services agency's designation may only be withdrawn after proper warning by the board. Any proposed changes affecting regional emergency medical services agencies must first have been considered by the State Emergency Medical Services Advisory Committee.

(b) The accountability of the regions to the board means adherence to the approved state emergency medical services plan and approved budgets. The Department of Public Health shall contract with the designated regional emergency medical services agencies to implement and coordinate the approved state emergency medical services plan. If a region's boundary or designated agency changes, the affected agency's funding shall be withdrawn, reduced, or increased accordingly.

(c) Each regional emergency medical services agency shall administer an approved state emergency medical services plan, developed

jointly by the board and the regional emergency medical services agencies as described below.

(d) The designated regional emergency medical services agencies shall assist the board with activities necessary to plan and coordinate effective emergency medical services systems within their respective regions. The approved state emergency medical services plan shall be developed and approved in the following manner:

(1) The format of the plan shall be established by the board in consultation with the regional emergency medical services agencies.

(2) Each regional emergency medical services agency shall develop its regional emergency medical services plan and shall hold at least two public hearings before the regional emergency medical services agency governing body adopts the plan.

(3) The plan shall be submitted to the board on or before February 1, 1993, and approved or returned to the region with suggestions within sixty days. If at any time the plan is returned to the region by the board because of disapproval, an amended plan shall be submitted to the board within sixty days.

(e) Effective with the 1993 fiscal year, monies appropriated annually by the Legislature to the regional emergency medical services agencies shall hereafter be appropriated to the board of health, which shall contract with the designated regional emergency medical services agencies, to fulfill the functions described above. The total amount provided each regional emergency medical services agency through this funding arrangement shall not be less than 1991 fiscal year (\$1,900,572 total for all six agencies divided equally among them), unless reduced by the Legislature or proration. In the event the Legislature or proration reduces such funding, each regional emergency medical services agency's portion of the total appropriation shall be reduced by the same percentage. If the State Committee of Public Health withdraws a regional agency's designation or modifies an agency's boundaries, following appropriate procedures, including those in the Alabama Administrative Procedure Act, the affected regional emergency medical services agency's funding shall be withdrawn, reduced, or increased accordingly. Beginning with the budgets for the 1994 fiscal year, the regional emergency medical services agencies shall develop budgets based on available funding and on needs and objectives congruent to a statewide emergency medical services plan. These budgets shall be submitted to the State Health Officer for approval. The State Health Officer shall approve a region's budget based upon the budget's conformance to the approved

state emergency medical services plan. In the event that the State Health Officer does not approve an item in a region's proposed budget, he or she shall nevertheless approve that portion of the budget which conforms to the emergency medical services plan and funds shall be disbursed to cover the approved portion of the budget.

(f) All funds over and above the state funding levels approved by the Legislature for the regional emergency medical services agencies during the 1991 fiscal year shall be distributed as follows:

(1) Not more than eight percent shall be allocated to the board of health to administer the program.

(2) Fifty percent of the remainder of the additional funds, calculated after allocation of the funds described in subdivision (1) of this section, shall be divided equally among the regional emergency medical services agencies.

(3) From the remainder of the additional funds, calculated after allocation of the funds described in subdivision (1) of this section, 25 percent shall be divided proportionately among the regional emergency medical services agencies based upon square mileage, and 25 percent shall be divided proportionately among the regional emergency medical services agencies based upon the population within the boundaries of each regional emergency medical services agency. Of the total amount allocated to each regional emergency medical services agency over and above the state funding levels approved by the Legislature during the 1992 fiscal year, not more than eight percent may be expended by each such regional emergency medical services agency to administer the regional emergency medical services program. The remainder of the funds shall be applied to meet emergency medical services training and equipment needs, as established within the regional plans approved by the board.

Section 5. The regional emergency services agency governing boards shall be representative of all elements of the emergency medical services system, including consumers, paid and volunteer providers, physicians, hospitals, and elected officials. Every county within the region shall be represented. Each region shall have a regional emergency medical control committee chaired by the regional emergency medical services medical director and comprised of the on-line emergency medical services medical director of each hospital providing medical control, other medical control physicians and physician advisors, as deemed appropriate by the regional emergency medical services medical director, one hospital administrator representing hospitals participating in the

regional emergency medical services system, one emergency medical technician paramedic representing advanced life support ambulance services, and one emergency medical technician paramedic representing advanced life support non-transport medical rescue services. Each region shall appoint a regional emergency medical services medical director who shall be a physician with experience and knowledge in emergency medical services. The regional emergency medical services medical director shall be appointed by the governing board of the regional agency. The appointment shall be subject to approval by the board. Each emergency medical services provider shall have a physician advisor. The medical credentials necessary for the appointment of physician advisors in each region shall be approved by the board. The appointment of physician advisors shall be recommended by the emergency medical services provider and shall be approved by the regional emergency medical services medical director. Changes in the appointment of the physician advisor by an emergency medical services provider shall not be made without the approval of the regional emergency medical services medical director.

Section 6. The existing State Emergency Medical Control Committee shall continue its activities. It shall coordinate and mediate medical and accountability activities among the regional emergency medical services systems. Members of the State Emergency Medical Control Committee shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office at the rate provided by state law. The chair of the State Emergency Medical Control Committee shall, as needed, establish subcommittees of the State Emergency Medical Control Committee comprised of representatives from ambulance, fire, rescue, and other emergency medical services as needed. After the effective date of this act, the State Emergency Medical Control Committee shall be composed as follows:

- (1) The regional emergency medical services medical directors.
- (2) One member appointed by the Alabama Chapter of the American College of Emergency Physicians in the event that none of the regional emergency medical services medical directors are active members of American College of Emergency Physicians.
- (3) One member appointed by the Alabama Committee on Trauma of the American College of Surgeons in the event that none of the regional emergency medical services medical directors are active members of the American College of Surgeons.
- (4) One member appointed by the Alabama Chapter of the Ameri-

can Academy of Pediatrics in the event that none of the regional emergency medical services medical directors are active members of the American Academy of Pediatrics.

(5) The State Emergency Medical Services Medical Director, who shall serve as the chair.

(6) the State Trauma Coordinator if a physician is designated as the coordinator by the board or pursuant to other procedure established by law.

Section 7. (a) The existing State Emergency Medical Services Advisory Committee shall continue its activities. Its purpose is to provide to the State Health Officer, the State Emergency Medical Services Medical Director, and the State Committee on Public Health assistance and input into the formulation of all rules necessary to implement this act. The State Emergency Medical Services Advisory Committee shall meet at least annually and at other times at the call of the State Health Officer. Members of the State Emergency Medical Services Advisory Committee shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office at the rate provided by state law. The State Emergency Medical Services Advisory Committee shall elect for a three-year term one of its members to serve as chair who shall not be eligible to serve consecutive terms. After the effective date of this act, the State Emergency Medical Services Advisory Committee shall be composed as follows:

- (1) One member appointed by the Alabama Hospital Association.
- (2) One member appointed by the Alabama Ambulance Association.
- (3) One member appointed by the Alabama Association of Rescue Squads.
- (4) One member who shall be a paramedic firefighter appointed by the Professional Firefighters Association of Alabama.
- (5) One member who shall be a emergency medical technician firefighter appointed by the Alabama Association of Volunteer Fire Departments.
- (6) One member appointed by the Alabama Association of Fire Chiefs.

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(7) Two members appointed by the Alabama Council on Emergency Medical Services to represent the regional agencies.

(8) One member appointed by the board.

(9) One member appointed by the Aeromedical Services Committee of the Alabama Hospital Association.

(10) One member appointed by the Alabama Chapter of the American College of Emergency Physicians.

(11) One member appointed by the Alabama Committee on Trauma of the American College of Surgeons.

(12) One member appointed by the Alabama Chapter of the American Academy of Pediatrics.

(13) One member appointed by the Medical Association of the State of Alabama.

(14) One member appointed by the Alabama Department of Economic and Community Affairs, Highway Traffic and Safety Program.

(15) One member appointed by the Director of the Department of Public Safety.

(16) One member from a state approved paramedic training school who shall be appointed by the Alabama Society of Emergency Medical Services Instructors.

(17) One member who shall be an emergency medical technician appointed by the Professional Emergency Medical Technician Association recognized by the board.

(18) One member appointed by the Alabama Chapter of the Emergency Nurses Association.

(19) One member appointed by the Alabama League of Municipalities.

(20) One member appointed by the Association of County Commissioners of Alabama.

(21) One member appointed by the Alabama Emergency Management Council.

(22) One member appointed by the Alabama State Nurses Association.

(23) One member appointed by the Alabama Firefighters Association.

(b) With the consent of the majority of the members of the State Emergency Medical Services Advisory Committee, the chair shall set requirements for proxy representation and voting and the establishment of a quorum. Members shall serve staggered terms of office of three years, according to a formula to be determined by the board, or until their successors are appointed. Any vacancy shall be filled in the same manner as provided for the original appointment.

Section 8. The State Emergency Medical Services Medical Director shall be appointed by the State Committee of Public Health upon the recommendation of the State Health Officer and shall be a physician with extensive knowledge and experience in emergency medical services. The State Emergency Medical Services Medical Director shall provide overall medical direction to the statewide emergency medical services system. With the guidance of the State Emergency Medical Control Committee, the State Emergency Medical Services Medical Director shall recommend rules governing medical control and accountability which must be approved by the board. The State Emergency Medical Services Medical Director shall be accountable to the State Health Officer on all matters pertaining to the statewide emergency medical services system.

Section 9. (a) With the advice of the State Emergency Medical Control Committee and the State Emergency Medical Services Advisory Committee in their respective areas as specified below, the board shall adopt rules to effectuate the purposes of this act. The State Emergency Medical Control Committee shall address issues pertaining to medical control and the activities of prehospital personnel. This shall include, at a minimum, field studies, procedures, treatment protocols, approval of intravenous fluids and drugs for field use, continuing education requirements, and quality assurance. The State Emergency Medical Services Advisory Committee shall address issues pertaining to licensure of prehospital personnel and ambulance services. This shall include, at a minimum, educational requirements for licensure, requirements for recertification, educational programs, equipment and personnel standards for ambulances and ambulance services, and quality assurance. The State Emergency Medical Control Committee shall meet at least annually and at other times at the call of the State Emergency Medical Services Medical Director or the State Health Officer. Administrative responsibil-

ity for the emergency medical services program is vested in the board. The board may establish special committees as it deems appropriate.

(b) The board may by rule designate certain procedures as "advanced life support techniques," which may be performed by emergency medical technicians during emergencies, including, but not limited to, situations where the life, health, or safety of a prehospital patient is in immediate jeopardy. The board may prescribe by rule the qualifications and certifications necessary for personnel performing advanced life support techniques and the specific conditions under which the techniques may be performed by non-physicians. Notwithstanding any statutory provision to the contrary, emergency medical service personnel who possess the necessary qualifications and certifications prescribed by the board shall not be deemed to have engaged in the unlawful practice of medicine when performing advanced life support techniques in accordance with the constraints established by the board.

(c) Quality assurance and similar materials, as used in this section, shall include: written reports, records, correspondence, and materials concerning the quality assurance or similar function of any hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program. The confidentiality established by this section shall apply to materials prepared by an employee, advisor, or consultant of a hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program and materials prepared by an employee, advisor, or consultant of a quality assurance or similar agency or similar body and to any individual who is an employee, advisor, or consultant of a hospital, emergency medical services provider, emergency medical services region, or state emergency medical services program, quality assurance, or similar agency or body.

(d) All quality assurance and similar materials shall be held in confidence and shall not be subject to discovery or introduction into evidence by the plaintiff or defendant in any civil action against a health care professional, institution, or emergency medical services service arising out of matters which are the subject of evaluation and review for quality assurance and similar functions, purposes, or activities. No person involved in the preparation, evaluation or review of quality assurance or similar materials shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the course of preparation, evaluation, or review of such materials or as to any finding, recommendation, evaluation, opinion, or other action of such quality assurance or similar function or other person involved therein. Information, documents, or records otherwise avail-

able from original sources are not to be construed as being unavailable for discovery or for use in any civil action merely because they were presented or used in preparation of quality assurance or similar materials. Nor should any person involved in preparation, evaluation, or review of such materials be prevented from testifying, but should not be asked about any opinions or data given by him or her in preparation, evaluation, or review of quality assurance or similar materials. Peer review is considered to be an integral part of quality assurance. To meet the requirements of this section, all quality assurance processes shall be a part of the approved State Emergency Medical Services Plan.

Section 10. The designated emergency medical services training programs shall follow the emergency medical services rules established by the board and shall assist the board with the planning, coordination, evaluation, and implementation of activities necessary to foster the development and maintenance of the emergency medical services educational system. The board shall approve primary education programs and continuing education training courses for prehospital personnel. The board shall establish minimum standards for primary education and continuing education training courses for prehospital personnel. The qualifications of instructors of training courses for prehospital personnel shall be established by rule of the board or shall be established by its authorized agents pursuant to requirements established by it. All training courses shall be taught by properly certified or approved instructors.

Section 11. (a) All prehospital personnel shall be licensed as required to practice their profession. Any person desiring licensure as an emergency medical technician shall complete an approved emergency medical technician course, shall successfully pass the appropriate level licensure exam, and shall submit an application to the board. Any individual in possession of a valid emergency medical technician or ambulance driver license on the effective date of this act shall retain his or her current level of licensure without further being required to successfully pass any additional licensure examination so long as the license held remains in good standing. A license shall be valid for a period of two years and may be renewed subject to the holder meeting the renewal requirements set forth by the board. Methods of satisfying the requirements for license renewal shall include either of the following:

(1) Completion of a formal refresher course approved by the board.

(2) Completion of a minimum number of continuing education units approved by the board, but any increase in the minimum required number of hours of continuing education in effect on the effective date of

this act shall be furnished without charge to prehospital personnel for any direct training costs including, but not limited to, tuition, registration, or course fee.

(b) The board may suspend or revoke a license so issued at any time it is determined that the holder has done any of the following:

- (1) No longer meets the prescribed qualifications.
- (2) Is guilty of misconduct as defined by a rule of the board or otherwise commits a serious and material violation of the rules.
- (3) Has failed to maintain the required level of continuing education units.
- (4) Has provided care to a prehospital patient which falls short of the standard of care which ordinarily would be expected to be provided by similarly situated emergency medical services personnel in Alabama, and has thereby jeopardized the life, health, or safety of a patient.
- (5) Has submitted a license application, a report of continuing education requirements, a run report, or any other document which is material to the duties and qualifications of emergency medical services personnel and which is willfully false or fraudulent in any respect.
- (6) Has committed fraud in the performance of his or her duties or in connection with any matter related to emergency medical services in Alabama.
- (7) Has been convicted of a crime involving moral turpitude, unless the board determines that the fact of the conviction would not be likely to interfere with the performance of emergency medical services duties.
- (8) Has committed other misconduct which is prejudicial to the performance of emergency medical services duties and which gives the board adequate and reasonable cause to take adverse licensure action.

Section 12. All of the following vehicles are exempted from this act:

- (1) Ambulances and air ambulances owned, operated, or staffed by the state or federal government.
- (2) A vehicle or vehicles rendering assistance to community

ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services.

(3) A vehicle or vehicles owned by a business which offers assistance exclusively to its employees who are injured or who otherwise require emergency medical assistance while on company property.

Section 13. Except as provided in Section 14, a prehospital emergency medical services operation found by the board to be noncompliant with this act shall not be eligible for the funding assistance provided by this act until the board determines that operation to be compliant.

Section 14. All members of the Alabama Association of Rescue Squads and all volunteer emergency medical services services previously exempted from, or heretofore not regulated by, Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975, and all other state laws pertaining to emergency medical services regulation, shall be exempt from any and all provisions of this act, including rules, regulations, certifications, policies, and procedures. Said exemption shall remain in effect until adequate funding is made available. Once adequate funding is made available, members of the Alabama Association of Rescue Squads and all volunteer emergency medical services services previously exempt shall have an 18-month grace period to come into compliance with statewide emergency medical services training standards. Compliance will be determined on a service-by-service basis upon the recommendation of the Alabama Association of Rescue Squads and the State Emergency Medical Services Advisory Committee. Should adequate funding cease, then compliance with statewide emergency medical services rules, regulations, certifications, policies, and procedures related to vehicles, equipment, and training shall cease until such time as adequate funding is made available.

Section 15. The board and the regional emergency medical services agencies shall develop a comprehensive statewide emergency medical services plan to facilitate the delivery of adequate emergency medical services to every citizen. Nothing in this act, in the rules adopted thereunder, or in any other provision of Alabama law shall be construed to give the board authority to require a volunteer fire department, a county, a municipality, or any other organization to operate an ambulance service.

Section 16. A licensed emergency medical technician may perform any function consistent with licensure, pursuant to rules adopted by the board. Vehicles manned by prehospital personnel, who are

trained to provide advanced life support and who possess current board licensure, may carry a drug kit containing limited quantities of drugs, including controlled substances, which have been approved by the board for administration to patients during the regular course of duties of the prehospital personnel. Notwithstanding the foregoing, drugs may be administered only upon the order of a physician licensed within this state, and who is, at the time the order is given, functioning in accordance with the applicable regional medical control plan approved by the board. Emergency medical technicians may not perform services pursuant to standing orders from physicians without prior approval of the board. Emergency medical technicians may accept standing orders only if they meet the qualifications prescribed by the board on the recommendation of the State Emergency Medical Control Committee and the State Health Officer. Emergency medical technicians may accept orders to perform advanced life support techniques only from medical control physicians who have completed medical control training prescribed by the board on the recommendation of the State Emergency Medical Control Committee and the State Health Officer.

Section 17. It shall be a Class A misdemeanor for any person, firm, company, corporation, organization, facility, or agency to do any of following:

(1) Hinder, obstruct, or interfere with an officer, inspector, or duly authorized agent of the board while in the performance of official duties.

(2) Hinder, obstruct, or interfere with any physician, nurse, licensed emergency personnel, or emergency personnel exempt from licensure under this act while the individual is providing emergency care to a third person.

(3) Offer, provide, or perform, without a valid, current license or certificate to do so, an emergency medical services or other function which, under this act or the rules adopted pursuant thereto, may not be performed without a license or certificate issued by the board. Notwithstanding the foregoing, no person shall be subject to criminal liability pursuant to this section in the event he or she renders first aid or emergency care at the scene of an accident, casualty, or disaster if the first aid or emergency care is rendered gratuitously and in good faith and the first aid or emergency care is not rendered in the course of a business, program, or system which regularly engages in emergency medical care. Nothing in this subsection shall be construed to repeal, abridge, or modify Section 6-5-332, Code of Alabama 1975, or any other good samaritan statute.

Section 18. In implementing its duties and responsibilities under this act, the board shall comply with the Alabama Administrative Procedure Act.

Section 19. Title to all emergency medical equipment previously purchased by regional agencies with funds appropriated by the State of Alabama shall be heretofore presumed to have vested in the ambulance service, rescue squad, first responder, fire department, or other provider having possession of the equipment on July 1, 1992. The regional emergency medical services agency can rebut this presumption by demonstrating that transfer of possession of the equipment to the provider was undertaken with the intent that title to the equipment remain vested in the regional emergency medical services agency. The rebuttal shall be supported by written documentation including, but not limited to, a lease or loan agreement.

Section 20. Neither this act nor rules of the board adopted thereunder shall apply to fire departments which offer only basic life support and do not transport. Notwithstanding the foregoing, this act and regulations adopted thereunder shall govern only the emergency medical services functions of fire departments and shall not apply to their firefighting functions or other functions. A fire department which merely offers cardiopulmonary resuscitation and other first aid and rescue in the course of firefighting and related operations shall not be deemed for that reason alone to be subject to this act.

Section 21. All laws or parts of law which conflict with this act including, but not limited to, Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975, are repealed. All rules adopted under the authority of code sections repealed by this act shall remain in effect until repealed by rules adopted under the authority of this act. All regional medical control and accountability plans previously adopted and approved by the board shall remain in effect until approval is withdrawn by the board or until new or amended plans are approved by the board.

Section 22. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 23. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senators Sanders, Amari, and Bedsole offered the following amendment to the deGraffenried substitute for the Bill, SB 115, to-wit:

AMENDMENT TO SUBSTITUTE FOR SB 115

Amend the substitute for Senate Bill 115 on Page 3, Line 27 by deleting the sentence after "act.", and inserting in lieu thereof the following:

"Further provided that nothing in this Act nor any rules promulgated by any Board or Agency shall authorize an Emergency Medical Technician to practice medicine or nursing in a hospital."

Which was adopted.

Senators Sanders and Amari offered the following amendment to the deGraffenried substitute, as amended, for the Bill, SB 115, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR SB 115**

Amend the substitute, as amended, for SB 115, as follows:

On page 8, line 18, insert the following language after the word "health,":

"in an appropriation designating each regional agency by name,"

Further amend the substitute, as amended, for SB 115 as follows:

On page 8, line 22, insert the following language after the word "arrangement":

"in the 1993 fiscal year and thereafter"

Further amend the substitute, as amended, for SB 115 as follows:

On page 8, line 34, by deleting the words, "Beginning with the budgets for the 1994 fiscal year,"

Further amend the substitute, as amended, for SB 115, as follows:

On page 8, line 33, insert the following language after the word "accordingly,":

"Notwithstanding language in the appropriations bill."

Which was adopted.

And said deGraffenried substitute, as amended, was adopted.

Yeas 26 Nays 3

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Ghee, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (J), Waggoner, and Windom -26

Nays:

Senators:

Foshee, Hale, and Little

- 3

And said Bill, SB 115, as amended by the substitute, as amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 27 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Figures, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Windom -27

Nays:

Senators:

Hale and Little

- 2

BUDGET ISOLATION RESOLUTION

Senator Bailey requested and received permission to suspend the Rules in order to bring up the Bill, SB 321.

Senator Bailey, B.I.R., SB 321, adopted.

Yeas 22 Nays 3

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Waggoner, and Windom -22

Nays:

Senators:

Corbett, Figures, and Sanders

- 3

BILLS ON THIRD READING RESUMED

THE BILL:

S. 321. To revise and supplement the existing statewide system for registering certain vital records and statistical data; to provide further for an Office of Vital Statistics, a State Registrar of Vital Statistics, and local registration districts and local registrars; to provide for additional registration procedures and requirements regarding certain types of births, deaths, final dispositions, adoptions, marriages, and divorces; to provide procedures for amending vital records, disclosing information from vital records, and reproducing, searching, and copying vital records; to provide for the collection of fees for certain services; to provide for enforcement and penalties for violations; to provide for existing forms and application to existing records; and to repeal Sections 22-9-1 to 22-9-79, inclusive, Code of Alabama 1975.

was taken up.

On motion of Senator Little, the Rules were suspended and further consideration of the Bill, SB 321, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Little then requested and received permission to suspend the Rules in order to bring up the Bill, SB 487.

Senator Little, B.I.R., SB 487, adopted.

Yeas 19 Nays 1

Yeas:

Senators:

Bennett, Bolling, Campbell, Dial, Dixon, Figures, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Waggoner, and Windom -19

Nay: Senator Corbett

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 487. Relating to Class 6 municipalities; to provide for certain circumstances where a motor vehicle shall be considered an abandoned

motor vehicle on private property; and to provide for the use of a wheel lock device.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Dixon, Ellis, Figures, Foshee, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (J), Waggoner, and Windom -21

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper (With Notice and Proof):

H. 441. Relating to Mobile County; levying a fee on any industry, business, municipality, industrial development board, or medical board exempted from all ad valorem taxes levied for school purposes in the county; and providing for collection and distribution of the revenue collected pursuant to the act.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 441, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 441 - to the Committee on Economic Affairs

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Senate amendment to the following House Bill:

H. 631. To propose a constitutional amendment relating to the volunteer fire departments, fire protection, and emergency services in Calhoun County and the levy and collection of additional special ad valorem taxes for the fire protection and emergency services, pursuant to Amendment 425 of the Constitution of 1901.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 296. To make a supplemental appropriation of \$675,000 from the Alcohol and Drug Abuse Court Referral Officer Trust Fund to the Mandatory Drug Treatment Program for the fiscal year ending September 30, 1992.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 631. To propose a constitutional amendment relating to the volunteer fire departments, fire protection, and emergency services in Calhoun County and the levy and collection of additional special ad valorem taxes for the fire protection and emergency services, pursuant to Amendment 425 of the Constitution of 1901.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

BUDGET ISOLATION RESOLUTION

Senator Lindsey requested and received permission to suspend the Rules in order to bring up the Bill, SB 375.

Senator Lindsey, B.I.R., SB 375, adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Denton, Dial, Ellis, Figures, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Waggoner, and Windom-23

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 375. Relating to oil and gas; empowering the State Oil and Gas Board to authorize and regulate the storage of gas in underground reservoirs, strata, or formations, in conjunction with the condemnation rights conferred by chapter 5, Title 10 of the Code of Alabama 1975, and the eminent domain procedures prescribed in chapter 1A, Title 18, Code of Alabama 1975, and exempting storage operators from certain privilege taxes.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Corbett, Denton, Dial, Ellis,

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Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey,
Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders,
Waggoner, and Windom -26

Nays: - 0

BILLS RE-REFERRED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the Bill, SB 304, and ordered same returned to the Senate with the recommendation that it be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, SB 304, re-referred to the Standing Committee on Education.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 87. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the twentieth legislative day of the 1992 Regular Session only:

	Page
H. 239	119
Ad valorem tax, 20 mil min., levied, cos., muns., bds. of ed., auth. to incr. without local legislation, distrib. to ed., consti. amend.	
H. 246	122
Ad valorem tax abatement, except taxes for school purposes, Secs. 4-3-8, 4-3-59, 11-54-31, 11-54-61, 11-54-96, 11-54-150, 11-54-183, 11-54A-14, 11-56-21, 11-94-19, 11-92A-18, 41-10-61, 41-10-107 am'd., Secs. 40-9-40 through 40-9-49 repealed	
H. 221	120
Education accountability act, appt. of supts. of ed., teacher suspension and tenure, city system defined, oath, hearings, nontenured principals, numerous sections amended and repealed	

H. 319

123

Personnel Control Committee established, powers and duties prescribed for review of hiring requests

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., HB 239, adopted.

Yeas 24 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Figures, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), and Waggoner

-24

Nay: Senator Corbett

- 1

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 239. Proposing an Amendment to the Constitution of Alabama of 1901, to authorize and require the levy of a minimum local ad valorem tax for school purposes in each school district in the state and to provide the procedure to further increase local ad valorem taxes in school districts.

REPORTS OF COMMITTEES RESUMED

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Dixon and Waggoner:

S. 452. To authorize payroll deductions for state employees for

the Foster Care Trust Fund.

By Senators Dixon and Waggoner:

S. 457. To provide a voluntary checkoff designation on state income tax returns for contributions to the Foster Care Trust Fund.

MOTION TO ADJOURN LOST

Senator Foshee moved that the Senate adjourn until Thursday, April 9, 1992, at 10 o'clock A.M., which motion was lost.

Yeas 12 Nays 15

Yeas:

Senators:

Amari, Bailey, Bolling, Corbett, Figures, Foshee, Hale, Langford, Lindsey, Lipscomb, Parsons, and Windom -12

Nays:

Senators:

Bedsole, Bennett, deGraffenried, Dial, Floyd, Ghee, Horn, Little, Mitchell, Mitchem, Owens, Preuit, Smith (J), Waggoner, and Wilson -15

FURTHER CONSIDERATION OF HB 239

The Senate proceeded to further consideration of the Bill, HB 239.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 239, to-wit:

SUBSTITUTE FOR HB 239

**A BILL
TO BE ENTITLED
AN ACT**

To propose and provide for the submission of an amendment to the Constitution of Alabama of 1901 levying a minimum local ad valorem tax for school purposes in each school district in the state, to provide the procedure to further increase local ad valorem taxes in school districts, to levy a special public school equalization tax of five mills per each one dollar of assessed valuation on all taxable property in the state, to provide for a public school equalization fund and to provide procedures for the public school equalization program.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285 and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

Upon the approval by a majority of the qualified electors of the state voting on the amendment to this Constitution that was proposed by the act of the Legislature that was introduced at the 1992 Regular Session thereof as House Bill 252, the hereinbelow described provisions of this amendment shall become immediately effective.

Section A

(1) The provisions of subsection (f) of Section 217 of this Constitution to the contrary notwithstanding, commencing with the tax year beginning October 1, 1992, for which taxes will become due and payable on October 1, 1993, and for each tax year thereafter, there is hereby levied in and on behalf of each school district in the county, a special ad valorem tax for public school purposes at the rate of 20 mills on each dollar of the assessed value of taxable property in the district, reduced by the amount of the credited millage applicable to the school district during the tax year. Credited millage shall include the total millage of all school taxes levied in a school district during a tax year other than any tax levied pursuant to this amendment. The millage of a school tax levied only in a part of a school district shall constitute credited millage only with respect to that part. The millage of a school tax levied on a countywide basis in a county containing more than one school district shall constitute credited millage with respect to each school district in the county without regard to the manner in which the proceeds of the tax may be distributed among the school districts.

(2) Each county shall distribute the proceeds of the tax to the school district in which the tax is collected. The tax shall be in addition to all other taxes authorized to be levied in any school district, and no countywide tax shall be required as a condition precedent to the levy of this tax.

(3) No governing authority may decrease the rate of tax or cease levying any tax or revenue source earmarked for public school purposes in its jurisdiction unless such tax or revenue source is, by its terms, set

to expire on a stated date or on the occurrence of a stated condition. No governmental authority may reduce the amount of grants or other financial support (other than in-kind services) provided to any public school unless the providing of such grant or financial support (other than in-kind services) was specified as temporary and nonrecurring at the time of the grant. Nothing in this section shall prohibit the governing authority of any taxing jurisdiction from reducing the rate of any tax (other than an ad valorem tax) or ceasing to levy any tax (other than an ad valorem tax) if such tax is replaced by another revenue source that produces, and is expected to produce in the future, the same amount of revenue as the tax reduced or repealed. This section shall not prevent the qualified electors of any jurisdiction from repealing any taxes or reducing the rate of any taxes earmarked for education, except ad valorem taxes in effect on January 1, 1992.

(4) The provisions of subsection (f) of Section 217 of this Constitution to the contrary notwithstanding, the county commission of each county or the governing body of a city acting on behalf of any school district in the county or in the city, as the case may be, may levy and collect an additional special district tax, in addition to any tax levied pursuant to subsection (1) of this amendment, on the assessed value of taxable property in the school district for public school purposes, at a rate not to exceed 10 mills on each dollar of the assessed value of taxable property in the district. Notwithstanding the foregoing, the rate of the tax provided for in this subsection (4), the time it is to continue, and the purpose for which it is to be levied and collected must first be submitted to and approved by a majority of the qualified electors of the school district voting at an election held thereon. Each election shall be called and held, the ballots canvassed, the results declared, and the tax levied and collected in the manner and at the time as are school district taxes authorized by Amendment 3 to the Constitution of Alabama of 1901. Notwithstanding the foregoing, no countywide tax shall be required to be levied as a condition precedent to either the authorization or levy of a tax pursuant to this subsection. Whether or not a tax is approved at an election, the holding of one election shall not preclude a later election in the same school district or in any other school district. The proceeds of any school tax levied and collected by a county or a city under this subsection shall be paid to the school district in which the tax is collected and expended for the exclusive benefit of that school district. The tax authorized shall be in addition to all other taxes now or hereafter authorized by the Constitution of Alabama of 1901, and the laws of Alabama to be levied in the school district in question, including, without limitation, any taxes levied pursuant to Section A subsection (1) of this amendment.

Section B

(1) Provisions of Amendment 373 of this Constitution notwith-

standing, commencing with the tax year that begins October 1, 1992, and for each tax year thereafter, there is hereby levied, in addition to any and all other mills heretofore or hereafter levied, a special public school equalization tax of five mills per each one dollar of assessed valuation on all taxable property in the state. The proceeds from the tax levied by Section B of this amendment shall be deposited into a trust fund to be known as the Public School Equalization Fund. The revenue deposited into the Public School Equalization Fund shall be expended for the purpose of bringing each local school system up to a minimum level of current day school expenditures. The Legislature shall establish a Public School Equalization Program and establish the criteria that a local school system must meet in order to participate in said program. Provided, however, that for any local school system eligible to participate in the Public School Equalization program to maintain its participation in said program, there must be levied and collected for public school purposes at least thirty mills of local ad valorem taxes per each one dollar of assessed valuations on all taxable property in the taxing jurisdiction for the tax year beginning October 1, 1995 and each tax year thereafter. Provided further, any local school system participating in the Public School Equalization Fund shall not reduce local effort for public school purposes below the tax level in place for the tax year beginning October 1, 1991.

Section 2. An election upon the proposed amendment is ordered to be held at the next general, special, primary or constitutional amendment election after the expiration of three months from final adjournment of the session of the Legislature at which this bill is enacted. The election shall be held in accordance with the provisions of Section 284, as amended, and Section 285 of the Constitution of Alabama of 1901 and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, the proclamation shall be published by posting, for a period of not less than four consecutive weeks next preceding the day appointed, a copy of the said proclamation at each courthouse in the said county.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 239, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 239

Amend the substitute for House Bill 239, on Page 5, Line 18,

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after the word "property" by inserting the following language:

", or its equivalency,".

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills delivered to the Governor, with the date and hour of delivery, to-wit:

SB 35

SB 43

SB 52

SB 41

SB 45

SB 100

Delivered to the Governor, April 7, 1992, at 2:27 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 7:08 P.M., on motion of Senator Foshee, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, HB 239, the Senate adjourned until Thursday, April 9, 1992, at 10 o'clock A.M.

Yeas 20 Nays 9

Yeas:

Senators:

Amari, Bailey, Bedsole, Bolling, Campbell, Corbett, Ellis, Figures, Floyd, Foshee, Hale, Langford, Lindsey, Lipscomb, Mitchell, Parsons, Sanders, Waggoner, Wilson, and Windom

-20

Nays:

Senators:

Bennett, deGraffenried, Dial, Ghee, Horn, Little, Mitchem, Owens, and Preuitt

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TWENTY-FIRST LEGISLATIVE DAY

THURSDAY, APRIL 9, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend James Arnell, Pastor, Saint John African Methodist Episcopal Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Kathy Meigs, Prattville High School, Prattville, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Twentieth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

**JIM PREUITT,
Chairperson.**

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, April 14, 1992, at 9 o'clock A.M., which motion was adopted.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 115. To establish the 1992 Emergency Medical Services Act of Alabama providing for a statewide emergency medical services system; to provide penalties for violations; and to repeal Sections 22-18-1 to 22-18-7, inclusive, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

MOTION TO RECESS LOST

At 11:55 A.M., Senator Corbett moved that the Senate take a recess subject to the call of the Chair, which motion was lost.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Campbell (With Notice and Proof):

S. 563. Relating to Lawrence County and volunteer fire depart-

ments, including volunteer fire departments with emergency medical technicians; to authorize the county governing body to levy a fee on dwellings and commercial buildings; to provide for the distribution of the fee to eligible volunteer fire departments; to provide for the collection and accounting for the fee; and to limit any liability of the county in the operation of volunteer fire departments.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 563, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Campbell (With Notice and Proof):

S. 564. Supplementing the salary of a supernumerary district attorney for the 36th Judicial Circuit from the county general fund of the county within the circuit.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 564, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Campbell (With Notice and Proof):

S. 565. Relating to Lawrence County; to provide for the establishment of a county public authority or corporation for the unified economic development of the county to consolidate any existing public authorities or corporations created by Lawrence County pursuant to Amendment No. 190 of the Constitution of Alabama of 1901.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 565, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

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By Senator Campbell (With Notice and Proof):

S. 566. To alter, rearrange, and extend the boundary lines and corporate limits of the City of Moulton in Lawrence County; and to provide for a referendum.

**Committee on Local
Legislation No. 1**

I hereby certify that the notice and proof is attached to the Bill, SB 566, as required in the General Acts of Alabama, 1975, Act No. 919.

**McDOWELL LEE,
Secretary.**

By Senator Campbell (With Notice and Proof):

S. 567. Relating to Lawrence County; authorizing the county commission to levy an additional ad valorem tax and providing for a referendum.

**Committee on Local
Legislation No. 1**

I hereby certify that the notice and proof is attached to the Bill, SB 567, as required in the General Acts of Alabama, 1975, Act No. 919.

**McDOWELL LEE,
Secretary.**

By Senator Campbell (With Notice and Proof):

S. 568. Relating to Lawrence County; providing for a county personnel board to implement and administer a certain county personnel system; providing that certain county personnel shall be employed outside of the county personnel system; providing that any county employee displaced by an appointment made outside of the system shall be entitled to be transferred under the county personnel system to another county position with an equal or better compensation schedule; and providing a certain increase in compensation for certain county employees.

**Committee on Local
Legislation No. 1**

I hereby certify that the notice and proof is attached to the Bill, SB

568, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Parsons (With Notice and Proof):

S. 569. Relating to Jefferson County, regulating the operation of tanning facilities and prescribing criminal and administrative penalties.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 569, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Parsons (With Notice and Proof):

S. 570. Relating to Jefferson County, regulating persons practicing the art of tattooing; prescribing certain criminal and administrative penalties; and prescribing a prospective effective date.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 570, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Smith (J) (With Notice and Proof):

S. 571. Relating to Madison County; to validate in certain cases elections held, on or after March 1, 1990, and prior to the effective date of this Act, in said County as a whole or in any school tax district therein for the purpose of authorizing a special tax for any public school or educational purpose, or for public school or educational purposes generally, under the Constitution of Alabama of 1901 or any amendment thereto; to provide for the levy and collection of any such tax; and to provide that the provisions of this act shall not apply to certain elections heretofore held or declared irregular or invalid or the validity of which is

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in issue in certain pending actions.

**Committee on Local
Legislation No. 1**

I hereby certify that the notice and proof is attached to the Bill, SB 571, as required in the General Acts of Alabama, 1975, Act No. 919.

**McDOWELL LEE,
Secretary.**

By Senator Dial (With Notice and Proof):

S. 572. Relating to Clay County; to increase the emergency telephone service charges and to provide for a referendum.

**Committee on Local
Legislation No. 1**

I hereby certify that the notice and proof is attached to the Bill, SB 572, as required in the General Acts of Alabama, 1975, Act No. 919.

**McDOWELL LEE,
Secretary.**

By Senator deGraffenried:

S. 573. To propose an amendment to the Constitution of Alabama of 1901, authorizing counties to voluntarily institute and establish a one-stop payment/issuing motor vehicle registration office for the collection of assessed ad valorem taxes, license taxes, and other motor vehicle registration and license fees; to provide for a voluntary referendum in a county; and to provide for certain retroactive effect.

**Committee on Finance
and Taxation**

The above Bill was read a first time at length as required by the Constitution.

By Senator deGraffenried:

S. 574. Relating to motor vehicle licensing, registration, and taxation; to authorize the establishment of a voluntary County On-Line Operational Registration System to expedite updating motor vehicle regis-

tration on the state computer database; to amend Sections 32-6-61, 32-6-63, 32-6-65, 40-12-240, 40-12-242, 40-12-248, 40-12-253, 40-12-258, 40-12-260, 40-12-261, 40-12-262, 40-12-264, 40-12-265, 40-12-269, 40-12-271, and 40-12-272 of the Code of Alabama 1975 relating to the staggered registration system; license decals and license plates; late registration of a motor vehicle and operating a motor vehicle without a current license plate; definitions; acquiring tags; special registration for wreckers; sending registration receipts if the data is transferred electronically; penalties and fees; special training fund; criminal sanctions for operating motor vehicles without license plates or with license plates from other jurisdictions when Alabama registrations are required; dealer tag fees; maximum number of dealer tags; motor vehicle manufacturers' plates; fines for misuse of a dealer or a manufacturer tag; the cost of replacement tags; sanctions for failure to comply with Department of Revenue requirements in computing ad valorem taxes and failure to submit registration information in conjunction with the County On-Line Operational Registration System; fees received by county officials; assessment and collection of ad valorem taxes on motor vehicles; Commissioner of Revenue's authority to promulgate rules and regulations in Chapter 12 of Title 40 of the Code of Alabama 1975; to authorize the funding of the County On-Line Operational Registration System and appropriate revenue for the administration of the system; to repeal Sections 32-6-67, 32-6-72, 32-6-92, 40-12-259, 40-12-267, and 40-12-295 in their entirety; and to provide effective dates for the various sections and subsections.

Committee on Finance
and Taxation

By Senator Waggoner:

S. 575. To provide that certain full-time employees and executive officers of the Alabama Sports Hall of Fame Board, a nonprofit corporation, may elect to become members of the Teachers' Retirement System of Alabama and the State Employees' Health Insurance Plan; to provide that the Alabama Sports Hall of Fame Board, and its employees shall assume all costs, both contributory and administrative, and no cost shall devolve upon the state; and to provide for the purchase of certain previous service credit in the Teachers' Retirement System of Alabama.

Committee on Finance
and Taxation

By Senator Parsons:

S. 576. To require city and town governing bodies to assess a

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charge against certain landowners seeking to connect to a sewer or sewer system and to provide that the act shall be construed as cumulative to certain existing law.

Select Committee on
Fiscal Responsibility

By Senator Windom (With Notice and Proof):

S. 577. To alter, rearrange and redefine the boundaries and corporate limits of the City of Mobile in Mobile County, Alabama, annexing certain territory, to-wit: Hollingers Island, to the city; to provide for certain city ad valorem tax exemption; to provide for municipal jurisdiction and reapportionment of certain city council district boundaries; and to provide for a referendum.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 577, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senators Windom and Bedsole (With Notice and Proof):

S. 578. Relating to Mobile County; to allow persons, regardless of profession, to be duly appointed to and to serve on any Mobile County board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Mobile County; and making the effect retroactive to January 1, 1973.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 578, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Windom (With Notice and Proof):

S. 579. To alter, rearrange and redefine the boundaries and

corporate limits of the City of Mobile in Mobile County, Alabama, annexing certain territory, to-wit: Cypress Shores and Todd Acres, to the city; to provide for certain city ad valorem tax exemption; to provide for municipal jurisdiction and reapportionment of certain city council district boundaries; and to provide for a referendum.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 579, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Corbett:

S. 580. Relating to employment; to prohibit an employer from penalizing an employee in employment for the use of tobacco products off the premises of the employer during nonworking hours.

Committee on Economic Affairs

By Senator Parsons:

S. 581. To require glass beverage containers to consist of a certain percentage of recycled glass.

Committee on Commerce,
Transportation, and Utilities

By Senator deGraffenried:

S. 582. Relating to motor vehicle licensing, registration, and taxation; to authorize voluntary, county advisory referendums to authorize establishing a one-stop payment/issuing office for the issuance of motor vehicle license tags which office and county official involved will assume the duties and responsibilities for the assessment and collection of ad valorem taxes on motor vehicles, license taxes, motor vehicle registration fees, and other fees within the county for motor vehicle tags; to allow the counties to implement a system for mailing renewal notices and license tags and establish a mailing fee; to ratify and give retroactive effect to any one-stop payment/issuing office established without prior appropriate authority; and to give this act immediate effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Committee on Finance
and Taxation

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By Senators deGraffenried and Waggoner:

S. 583. To provide for the regulation and licensure of athletic trainers; to provide for an Athletic Trainers' Board; to prescribe civil procedure for appeals; and to prescribe fines and penalties for the violation of this act.

Committee on Health

By Senator Foshee:

S. 584. To amend Sections 37-1-1, 37-1-3, and 37-1-11, Code of Alabama 1975, relating to the Public Service Commission; to restructure the commission with three commissioners of equal rank elected to staggered terms of six years; to provide for a rotating chair among the three commissioners; and to provide for the salaries and expense allowances for the commissioners.

Committee on Economic Affairs

By Senator Mitchem (With Notice and Proof):

S. 585. Relating to Blount County; to authorize the county commission to levy a fee of up to \$.05 per 1,000 gallons on water transported out of the county from any water reservoir located in the county, and to deposit the proceeds of the fee in the general fund of the county.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 585, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Mitchell (With Notice and Proof):

S. 586. Relating to the City of Daleville in Dale County: Authorizing the City of Daleville as a municipal corporation to establish, purchase, construct, maintain and operate a television cable system and to furnish television cable service to the residents of the city and to residents of the municipal corporations and surrounding territory; prescribing its powers in connection therewith; authorizing and regu-

lating the issuance and security of bonds and other evidences of indebtedness by such municipal corporation in connection with such systems; providing for the payment of such bonds and other evidences of indebtedness and the rights of the holders thereof; and exempting municipal corporations transacting business pursuant to the Act from the jurisdiction and control of the Alabama Public Service Commission.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 586, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Dial (With Notice and Proof):

S. 587. Relating to Cleburne County; to increase the emergency telephone service charges and to provide for a referendum.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 587, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I transmit herewith to you a message from the Governor, returning Senate Joint Resolution No. 57, without the Governor's signature and with a suggested Executive Amendment.

Done this 9th day of April, 1992.

Respectfully submitted,

G. DENNIS NABORS,
Executive Secretary/
Chief of Staff.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I am returning to you, the body in which it originated, Senate Joint Resolution No. 57, without my approval and with the following suggested Executive Amendment:

**EXECUTIVE AMENDMENT TO
SENATE JOINT RESOLUTION NO. 57:**

Please amend Senate Joint Resolution 57 on page 1, line 21 by deleting the number "1992" and inserting in lieu thereof the number "1991".

The adoption of the above suggested Executive Amendment will remove my objections to this Bill.

Done on this the 9th day of April, 1992.

Respectfully,
GUY HUNT,
Governor.

GOVERNOR'S MESSAGE

On motion of Senator Foshee, the Senate concurred in and adopted the amendment proposed by His Excellency, the Governor, to the Resolution:

SJR 57. MOURNING THE DEATH OF AARON ARONOV OF MONTGOMERY, ALABAMA.

which said amendment is set out in the foregoing Message from the Governor, by a voice vote.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I transmit herewith to you a message from the Governor, return-

ing Senate Joint Resolution No. 18, without the Governor's signature and with a suggested Executive Amendment.

Done this 9th day of April, 1992.

Respectfully submitted,

G. DENNIS NABORS,
Executive Secretary/
Chief of Staff.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I am returning to you, the body in which it originated, Senate Joint Resolution No. 18, without my approval and with the following suggested Executive Amendment:

EXECUTIVE AMENDMENT TO
SENATE JOINT RESOLUTION NO. 18:

Please amend Senate Joint Resolution on page 1, line 16, after the period by inserting the following language:

"The committee shall exist for a period of two (2) years following the effective date of this resolution."

Further amend on page 2, lines 14 through 25 by deleting subsections (2) and (3) in their entirety and renumbering the subsequent subsections accordingly.

The adoption of the above suggested Executive Amendment will remove my objections to this Bill.

Done on this the 9th day of April, 1992.

Respectfully,

GUY HUNT,
Governor.

GOVERNOR'S MESSAGE

On motion of Senator Foshee, the Senate concurred in and adopted the amendment proposed by His Excellency, the Governor, to the Resolution:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

which said amendment is set out in the foregoing Message from the Governor, by a voice vote.

RESOLUTION

Senator Wilson requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 88. INVITING PRESIDENT CESAR GAVIRIA TRUJILLO OF THE REPUBLIC OF COLOMBIA TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

WHEREAS, President Cesar Gaviria Trujillo was the leading force in the adoption of a new constitution for the Republic of Colombia; and

WHEREAS, the new constitution nurtures the basic principles of democracy and human rights, ideals strongly supported by President Trujillo; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we respectfully request President Trujillo to address the Alabama Legislature at a time and date to be set at his convenience, whereupon the Alabama House of Representatives and the Alabama Senate will assemble in joint session to hear his remarks.

BE IT FURTHER RESOLVED, That President Trujillo be advised, by copy of this resolution, of our invitation to address the Legislature and of our hopeful anticipation of his acceptance.

On motion of Senator Wilson, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and

ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 508. To provide further for certain sales and use tax exemptions; to amend Sections 40-23-1 and 40-23-4, Code of Alabama 1975; and to provide for a retroactive effect.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 508 - to the Select Committee on Fiscal Responsibility

RESOLUTION

Senators Parsons, Floyd, Wilson, Corbett, Windom, Denton, Little, Lindsey, Figures, Horn, Dial, Bedsole, Hale, Ellis, Ghee, Owens, Foshee, Dixon, Bolling, Waggoner, Preuit, Mitchem, and Mitchell requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 89. CALLING FOR AN ELECTION TO BE CONDUCTED TO DETERMINE IF A CONSTITUTIONAL CONVENTION SHALL BE HELD TO REVISE AND AMEND THE CONSTITUTION OF ALABAMA OF 1901.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING:

1. That on May 4, 1993, an election shall be held in the several counties of this State, in the same manner and by the same officers as general elections are required to be held, for the purpose of determining whether or not a convention shall be held to revise and amend the Constitution of Alabama. At the election, the question of the holding of a convention shall be submitted to a vote of qualified electors of the State. If a majority of the voters voting at the election approve of the holding of a convention for the purpose stated, the convention shall be held as hereinafter provided.

2. At this election every qualified elector who approves of the holding of a convention shall declare it by depositing his or her ballot at

the voting place where he or she is entitled to vote by making a cross mark before the words "for convention," written or printed on the ballot. Every qualified elector, who disapproves of the holding of a convention, shall deposit his or her ballot, marked with a cross mark before the words "no convention," which shall be written or printed on the ballot.

3. At the time of the election, voters from each Alabama Senate District shall elect three delegates to the convention.

Candidates for election as delegates shall be nominated in the same manner in which candidates for election to fill vacancies in the Legislature are nominated. The names of all candidates so nominated, and no other names, shall be printed on the official ballots to be prepared for the purpose of the election. The ballots shall be separate and distinct from the ballots on which are printed the words "For Convention" and "No Convention". The official ballot containing the names of all candidates shall be prepared in the same manner as official ballots are prepared in general elections. Above the names of the candidates shall be printed the words, "For delegates to the Constitutional Convention from the Senate District _____ Vote for three delegates, one for each place."

4. All delegates to the convention shall be citizens of the State and qualified electors of their respective districts. No person shall be disqualified from being a delegate because he or she holds any office of honor or profit under the State or Federal government.

5. On Thursday following the election, the returning board of each county in the State, shall meet at the court house of the county for the purpose of canvassing the returns of the election. The returning board shall ascertain how many votes were cast "for convention," how many votes were cast "no convention," and how many votes were cast as a whole in the county. The returning board shall certify the votes immediately to the Secretary of State. The returning board shall ascertain the number of votes received by the candidates for delegates for each place in the various districts, and shall certify the votes to the Secretary of State.

6. On May 11, 1993, the Governor, Secretary of State, and Attorney General shall assemble in the office of the Secretary of State and, upon the returns of the election, canvass the votes which have been cast "for convention" and "no convention" as appear from the returns. If it appears that a majority of all persons voting in the election voted for the holding of the convention, they shall ascertain from the returns which persons were elected as delegates to the convention from each of

the several districts, and the Secretary of State shall issue certificates of election to the persons so elected. The Governor shall give public notice, by proclamation, of the fact that a majority of the electors of the State voting at the election approved the calling of the convention for the purpose above stated. The proclamation shall be published in every county of the State in a newspaper of general circulation in the county in which it is published. The Governor shall call upon the delegates elected to assemble at the time and place, and for the purpose, herein designated. The courts of the State shall take judicial notice of such proclamation.

7. If the holding of the convention is approved by the qualified electors of this State, the delegates elected shall convene in the hall of the House of Representatives in the City of Montgomery on June 2, 1993, at 12:00 noon. They shall organize the convention by the election of a president, from among themselves, and any other officers, who need not be delegates, as they may deem necessary. The convention shall continue in session until it shall, by careful revision and amendment of the present constitution, frame and adopt a revised constitution for this State.

8. In case any dispute occurs as to the right of any person to sit in the convention as a delegate, the question shall be decided by the convention, which shall be the exclusive judge of the election, qualification, and returns of its own members. Any person desiring to contest the election of a person, who is certified as being elected as a delegate to the convention, may do so in the same manner as the election of a member of the House of Representatives of the Legislature of Alabama is contested, by giving the same bond, and testimony shall be taken in the same manner.

9. The delegates to the convention shall be supplied with stationery, books, statutes, reports, and documents in the same manner as members of the Legislature of Alabama. The Chief Justice of the Supreme Court, or in his or her absence, one of the Associate Justices of the Supreme Court, shall call the convention to order and preside until temporary officers are elected. The delegates shall receive for their services the same per diem and mileage from the State Treasury as is allowed to members of the Legislature of Alabama and the other expenses of the convention shall be paid in the same manner as provided for the Legislature of Alabama. The per diem, mileage, and other expenses shall be paid on the certificates of the president and secretary or clerk of the convention, to the State Comptroller, in the same manner that payment of the compensation to members of the Legislature of Alabama is by law directed to be made. Per diem compensation shall

not be allowed or paid to any member of the convention for a period of time longer than 75 consecutive calendar days.

10. The convention shall file with the Secretary of State, within one week after its adjournment, certified by the hand of the president and secretary or clerk, a clean and correct copy of the constitution which the convention adopts. The convention shall keep a correct journal of its proceedings, and file it upon adjournment with the Secretary of State.

11. Before entering upon the discharge of his or her duties as a member of the convention, each delegate shall, before a judge of the circuit or Supreme Court of this State, take the following oath: "I do solemnly swear that I will support the Constitution of the United States, and I will honestly and faithfully perform the duties which are now to devolve on me as a delegate of this convention, so help me God".

12. Except as herein otherwise provided, the general election laws of this State shall apply fully to the elections provided for under this resolution, including all matters preliminary to the holding of the elections as well as all matters subsequent thereto.

13. The judge of probate of each county shall prepare and furnish to the election officials of each voting place in the county a sufficient number of official ballots equal. The ballots shall be prepared in the manner provided under existing laws, and shall contain the names of the persons who have been nominated and certified as candidates as herein provided.

14. In the event of the framing of a constitution by the convention, it shall be the duty of the Governor, within one week after the filing of the constitution with the Secretary of State, to issue his or her proclamation, published in the same manner as the proclamation to assemble the convention is required to be published under paragraph 6. The proclamation shall state that the constitution has been framed and that an election will be held in the several counties of the State for the purpose of submitting the constitution to the qualified voters of the State for ratification or rejection. The Governor shall publish a copy of the proposed constitution at the same time and in the same manner as the proclamation is required to be published. The election required by this paragraph shall be held not less than 20 days nor more than 60 days after the date of the proclamation and the date of the election shall be set forth in the proclamation. The election shall be held by the same officers and in the same manner as general elections are required to be held.

15. At the election provided for by the preceding paragraph, every

qualified voter who is in favor of the ratification of the constitution so framed by the convention shall make a cross mark before the words "For Constitution," which shall be written or printed on the ballot, and shall deposit his or her ballot at the voting place where he or she may be entitled to vote. Every qualified elector voting at the election who is against the ratification of the constitution shall deposit his or her ballot at the voting place where he or she may be entitled to vote and mark a cross mark before the words, "Against Constitution," which shall be written or printed on the ballot. The returns of the election shall be made in the same manner, within the same time, by the same officers, certified to the same officer, and shall be in the same form as provided in paragraph five of this resolution.

16. Within 15 days after the day on which the election shall be held for the ratification or rejection of such constitution, the Governor, Secretary of State, and Attorney General shall assemble in the office of the Secretary of State and open the returns of the election. They shall tabulate the votes which may have been cast "For Constitution" and "Against Constitution," and the results shall be certified to the Governor by the Secretary of State and Attorney General. If the constitution is ratified by a majority of all the qualified electors voting at the election, the Governor shall designate a date in the proclamation, not later than 10 days from the date of the proclamation, at which time the new constitution shall go into effect as the Constitution of the State of Alabama, and shall be binding and obligatory as such upon all the people of this State.

17. If an election is called as required under paragraph 14 of this resolution, the judge of probate of each county in the State shall prepare and furnish the official ballots to be voted at such election as now required under the general election laws of the State which official ballot shall be prepared according to the requirements of paragraph 15 of this resolution. No ballot other than an official ballot shall be cast and counted in the election, and the election shall be held and conducted as general elections are held, except as otherwise provided by this resolution.

Which was read and referred to the Standing Committee on Rules.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 546. To amend Section 27-40-2 of the Code of Alabama 1975, relating to insurance premium finance companies to exempt consumer finance companies licensed under Chapter 19, Title 5 of the Code of Alabama 1975, from regulation.

By Senator Lindsey:

S. 558. Relating to the annual licensing and bonding of businesses, individuals, firms, associations, partnerships, companies, or corporations engaged in the business of recovering or assisting in the recovery of lost or unclaimed property under the Uniform Disposition of Unclaimed Property Act, or any other property or outstanding obligation, whether or not monetary in nature; and providing for requirements for qualification of licensing; providing for penalties for violations; providing for rulemaking authority; and providing for the distribution of fees.

By Senator Foshee:

S. 111. To authorize the Alabama Alcoholic Beverage Control Board to permit the handling and sale of low alcohol products, containing not more than four percent alcohol by volume, by its licensees; to provide for the licensing of low alcohol products manufacturers, low alcohol products importers, low alcohol products wholesalers, and low alcohol products retailers by Alabama Alcoholic Beverage Control Board; to impose state filing fees, and to levy state license fees on low alcohol products wholesalers, importers and retailers; to authorize the levy of county and municipal license fees; to impose an exclusive statewide tax on or measured by the volume of sales of low alcohol products and provide for the collection, administration, and distribution of the tax; to prescribe violations and offenses, and provide for the imposition of fines, and the suspension or revocation of licenses; to provide for separation of business interest of classes of low alcohol products licensees; and to provide for regulation of advertising low alcohol products.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Waggoner (With Amendment):

S. 369. Relating to public health in this state; to prohibit smok-

ing in a public place or at a meeting of a public body, except in a designated smoking area; and to prescribe penalties for violations.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bolling:

S. 523. To provide for certain crimes and offenses relating to animals and research, agricultural, or educational facilities relating to animals; and to provide penalties, restitution, and injunctive relief.

By Senator Smith (B):

S. 536. Amending Section 16-47-10 of the Code of Alabama 1975, granting additional arrest powers to police officers of the University of Alabama.

Senator Wilson, Chairperson of the Standing Committee on Energy and Natural Resources, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Ghee:

S. 350. To amend Sections 22-25-1, 22-25-2, 22-25-7, 22-25-9, 22-25-11, 22-25-12, 22-25-14, and 22-25-15, Code of Alabama 1975, relating to the regulation of water and wastewater systems and treatment plants; to permit the Department of Environmental Management to also regulate public wastewater collection systems; to provide for operator certification; and to relieve the appropriate district attorney of certain enforcement duties.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Campbell:

H. 392. Relating to certain fishing licenses of the Department of

Conservation and Natural Resources; to require a "saltwater fishing license" for certain persons fishing below a certain defined line and authorize the costs and fees associated therewith; to provide for certain exceptions; to amend Section 9-11-53, Code of Alabama 1975, relating to a certain freshwater fishing license, so as to further describe where it shall be required and increase the cost thereof; to delete certain provisions relating to distribution of certain license fees to the Marine Resources Division; to further prescribe certain penalties; and to provide for the sale of both licenses on a combination basis; and to provide for a reciprocal agreement between the State of Alabama Department of Conservation and Natural Resources and the State of Florida exempting persons 65 years of age or older from fishing and hunting license requirements.

By Reps. Hooper, Sanderson, Williams, Rogers (J), Flowers, Barnes, Penry, Cosby, Knight, Harper, Hawkins, Carns, Zoghby, Kvalheim, Gaston, Cagle, Hogan, Crow, Gullatt, Gaines, Willis, McKee, Walker, Mikell, Curry, Clark (J), Petelos, Millican, Hill, and McClain:

H. 361. To establish a Recycling Industry and Market Development Council to assist in the development of markets for recovered materials and products with recycled content in this state and to provide for the function, duties, and membership of the council.

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Foshee:

S. 297. To promulgate the "Private Enterprise and Employment Act of 1992" in order to promote the private enterprise system; to prohibit state government from starting or conducting any commercial or industrial activity to provide goods or services if such goods or services can be procured from any responsible private enterprise; to require state agencies starting or conducting a commercial or industrial activity to determine if there is a clearly identified and demonstrated economic advantage in starting or conducting such activity in the agency; to prohibit municipalities or political subdivisions from using state financial assistance to start or conduct any commercial or industrial activity to provide goods or services if such goods or services can be procured from any responsible private enterprise; to require any municipality or poli-

tical subdivision using state financial assistance to start or conduct any commercial or industrial activity to determine that there is a clearly identified and demonstrated economic advantage to start or conduct such activity in the municipality or political subdivision; to require the adoption of appropriate rules to implement the provisions of this act; to require the Governor to submit to the Legislature a plan for the gradual elimination of industrial and commercial activities of government conducted in violation of the policies of this act; and to require municipalities and political subdivisions to issue a certificate relating to industrial and commercial activities before receiving state funds or financial assistance.

By Senator Hale:

S. 311. Relating to funding domestic violence centers; to amend Section 30-6-6 of the Code of Alabama 1975, to remove the requirement that one-half of the funding for facilities must be from local sources.

By Senator deGraffenried:

S. 380. To amend Section 36-25-9 of the Code of Alabama 1975, to allow real estate brokers, agents, developers, appraisers, mortgage bankers, or certain other persons to serve on state, county, or municipal regulatory boards or commissions; to provide for the membership composition of county or municipal regulatory boards and commissions; and to prohibit members of county or municipal regulatory boards or commissions from voting or participating in matters in which the member has a financial interest.

By Senator Ghee:

S. 459. To amend Section 26-17-7 of the Code of Alabama 1975, to provide that certain actions commenced in the name of the state regarding paternity matters shall be brought by the Department of Human Resources.

By Senator deGraffenried:

S. 478. Requiring the Alabama Commission on Higher Education to establish a statewide steering committee to improve participation in two-year and four-year postsecondary education and prescribing the duties of the committee; requiring the commission to enter into a contract to establish a center to provide communications regarding postsecondary education; and permitting the commission to seek supplemental funding.

By Senator Waggoner:

S. 554. To amend Section 41-9-452 of the Code of Alabama 1975, to provide further for the duties and powers of the Alabama Sports Hall of Fame Board.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. McClain, Barnes, Payne, Carns, Hawkins, Biddle, Petelos, Gaines, Morton, Rogers (J), McDowell, Perdue, Spratt, Newton (D), and Sanderson:

H. 340. To create and establish the Alabama School of Fine Arts to be governed by a board of trustees.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Bennett (With Substitute) (With Amendment):

S. 295. To establish reduction-in-force policies for certain public education institutions not having such policies.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Little:

S. 129. To establish the "Alabama Child Nutrition Law"; to provide that each board of education shall establish school breakfast and lunch programs beginning with the 1993-94 school year; to authorize the state board of education to promulgate rules for the compliance of this act; and to provide for enforcement and the imposition of sanctions by the state superintendent of education.

By Senator Bennett:

S. 304. To allow the officers and employees of the American

Federation of Teachers in Alabama to elect to participate in the teachers' retirement system.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Foshee:

S. 506. To provide for the keeping of records by junk dealers, scrap metal dealers, and scrap metal processors of all purchases of copper, aluminum, brass, and other scrap metals or junk and to provide that such records shall be subject to inspection by duly authorized law enforcement officers and to provide penalties for violations.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Morrow:

H. 98. To authorize and approve a compact with the State of Mississippi to promote and develop trade, commerce, industry, and employment opportunities for the public good and welfare in northeast Mississippi and northwest Alabama through the establishment of a joint interstate authority to acquire certain railroad properties and facilities.

By Senator Ghee:

S. 529. To amend Sections 22-24-1, 22-24-4, 22-24-5, and 22-24-8 of the Code of Alabama 1975, relating to water well standards, so as to provide further for the licensing of well drillers and to repeal Section 22-24-12 of the Code of Alabama 1975, which exempts Baldwin County from the chapter.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator Dial (With Amendments):

S. 552. To amend Section 41-23-1, Code of Alabama 1975, to

establish and specify the powers and duties of the Office of Water Resources as a division of the Department of Economic and Community Affairs; and to establish the Alabama Water Resources Commission and authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Rep. Burke (With Substitute):

H. 470. To provide for the environmental commemorative tag program; to provide for certain fees for environmental commemorative tags to be distributed to the Alabama Environmental Education Fund to be used for environmental education; for this purpose to amend Section 32-6-150 of the Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senators Corbett and Campbell (With Amendments):

S. 550. To amend Section 22-22A-2, Code of Alabama 1975, so as to establish and specify the powers and duties of the Office of Water Resources as a division of the Alabama Department of Environmental Management; to establish the Alabama Water Resources Commission; and to authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Denton, Bennett, Dixon, Smith (J), Dial, Windom, Amari, Mitchell, Floyd, Parsons, Hale, Preuitt, Bedsole, Lipscomb, Bolling, Horn, Waggoner, Ellis, Foshee, Ghee, Campbell,

deGraffenried, Little, Wilson, Bailey, Smith (B), Owens, Sanders, and Figures:

S. 527. To limit campaign contributions to candidates for the Legislature and any statewide offices and to prescribe penalties for violations.

By Senator Sanders:

S. 537. To establish a procedure by which persons who are qualified to vote in this state may register to vote by mail.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Ellis (With Notice and Proof):

S. 531. Relating to Shelby County; to amend and reenact Act No. 596, H. 1577, 1975 Regular Session (Acts 1975, p. 1346), pertaining to a rehabilitation and work release program for jail inmates in certain counties classified on a population basis, so as to provide further for a work release program in Shelby County.

By Senator Mitchem (With Notice and Proof):

S. 545. To alter and rearrange the boundary lines and corporate limits of the municipality of Hammondville in DeKalb County to exclude certain territory.

By Senator Ghee (With Notice and Proof):

S. 560. Providing for a legislative delegation office for Calhoun County and providing for retroactive effect.

By Rep. Hammett (With Notice and Proof):

H. 49. Relating to Covington County; authorizing the judge of probate to issue boat licenses by mail and to allow an additional issuance fee to cover the expense of mailing such licenses.

By Rep. Cullins (With Notice and Proof):

H. 58. Relating to Tallapoosa County; to give the county com-

mission certain powers and authority in regard to performing work or services upon private property and selling material to churches, schools, individual or non-profit associations or corporations; setting the conditions under which such work can be done or materials sold; and establishing the procedure governing work on private property or the sale of materials under the provisions of this act.

By Rep. Morrow (With Notice and Proof):

H. 101. Relating to Franklin County; authorizing the County Commission to construct and maintain driveways for schools, churches and church owned cemeteries, and school bus turnarounds located within the county at county expense on any gravel road or driveway leading from a public road to the residence of an abutting landowner.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Reps. Dolbare and Blakeney (With Notice and Proof) (With Amendment):

H. 119. To provide that no municipality in Clarke County whose corporate limits do not lie within or extend into and embrace and include a portion of Choctaw County shall have or exercise police jurisdiction within Choctaw County; nor shall any such municipality exercise police jurisdiction, police powers or taxing powers within Choctaw County or over or on any person in Choctaw County or property or business or trade or profession in Choctaw County; nor shall any such municipality levy, fix or collect any license or fee of any kind in Choctaw County; nor shall any ordinance of any such municipality enforcing police or sanitation regulations or prescribing fines or penalties for violation thereof have force or effect in Choctaw County.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Carter (With Notice and Proof):

H. 126. Relating to Limestone County; to authorize the license

commissioner to charge a fee for mailing boat licenses.

By Rep. Carter (With Notice and Proof):

H. 129. Relating to Limestone County; providing authority for the county commissioners to provide assistance in the maintenance, restoration, care and protection of ancient cemeteries.

By Rep. Carter (With Notice and Proof):

H. 130. Relating to Limestone County; authorizing the Limestone County Commission to establish and set the compensation of election officers.

By Rep. Drake (With Notice and Proof):

H. 144. Relating to Cullman County; providing for the collection of gasoline taxes by the State Revenue Department.

By Rep. Warren (With Notice and Proof):

H. 297. Requiring the mailing addresses of the grantor and grantee to be in the body of an instrument used for conveyance of real property in Conecuh County and providing for a delayed effective date.

By Reps. Venable and Mikell (With Notice and Proof):

H. 310. Relating to the governing body of Elmore County; to provide for five commissioners elected from single-member districts; to provide for the election of one commissioner to serve as chair; to provide for an additional salary for the chair; to provide that the judge of probate no longer serve as ex officio member of the commission or as chair; to provide for the boundaries of the five commission districts according to a map prepared by the Central Alabama Regional Planning and Development Commission and adopted by the county commission; to authorize the creation of voting centers; and to repeal conflicting laws, including but not limited to, Act No. 84-656, H. 973, Regular Session 1984 (Acts 1984, p. 1307).

By Rep. Venable (With Notice and Proof):

H. 333. Relating to Elmore County; providing further for the compensation of the sheriff.

By Rep. Venable (With Notice and Proof):

H. 334. To authorize the county commission of Coosa County to

increase the rate of the special countywide ad valorem tax for public school purposes which is authorized in Amendment No. 3 to the constitution, to a maximum rate which is equal to \$2.10 on each one hundred dollars of assessed value.

By Rep. Layson:

H. 359. To propose an amendment to the Constitution of Alabama of 1901 relative to the compensation of the Judge of Probate of Pickens County.

The above Bill was read a second time at length as required by the Constitution.

By Rep. Campbell (With Notice and Proof):

H. 406. Relating to Calhoun County; providing that beer or ale may be sold in cans not exceeding 24 fluid ounces in size.

By Rep. Letson (With Notice and Proof):

H. 459. Abolishing School District No. 2 in Lawrence County, Alabama, and transferring the assets, liabilities, books, and records of School District No. 2 to School District No. 1 in that county.

By Rep. Letson (With Notice and Proof):

H. 461. Relating to Lawrence County; to authorize the Sheriff to offer abandoned and stolen property for sale at public auction to the highest cash bidder.

By Reps. Hall, Butler, Freeman, Sanderford, and Haney (With Notice and Proof):

H. 488. Relating to Madison County; prohibiting alcoholic beverage traffic in any private or public lounge, tavern, bar, club, night-club or restaurant in certain unincorporated areas of the county that features or otherwise permits topless females on its premises.

By Rep. Cullins (With Notice and Proof):

H. 538. Relating to Tallapoosa County; to provide for a referendum election held in the June 1992 primary election in which the electors of the county shall select a system of county road and bridge maintenance based on three alternative choices: one alternative is to

keep the current modified unit system as provided in Act No. 91-355 of the 1991 Regular Session; a second alternative is to adopt a proposed act providing for a county commissioners district maintenance system as provided herein as Item I of Section 1; and a third alternative is to adopt a proposed act providing for a unit system as provided herein as Item II of Section 1.

By Rep. Morrow (With Notice and Proof):

H. 548. Relating to Franklin County; to provide for the working days and office hours of the board of registrars for the registration and reidentification of voters.

By Rep. Holladay (With Notice and Proof):

H. 552. Providing for a board of education for the City of Pell City, Alabama, to be elected by the qualified electors of said city; providing that the members of such board shall be elected from defined school districts; providing for the terms of office, qualifications and compensation of such members; prescribing procedures for electing such members and for filling vacancies on such board; providing for board representation for persons not residing within a specific school district; providing certain immunity for such board members; providing for financial audits of the records of such board; and providing that this act shall become effective only upon the ratification of an amendment to the Constitution of Alabama 1901, authorizing an elected school board for the City of Pell City.

By Rep. Holladay:

H. 555. Proposing an amendment to the Constitution of Alabama of 1901, providing for the election of the members of the board of education in the City of Pell City, Alabama.

The above Bill was read a second time at length as required by the Constitution.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time, to-wit:

By Rep. Carter (With Notice and Proof):

H. 127. Relating to Limestone County; providing that there shall

be only one landfill in the county.

BILL REFERRED

Pursuant to the provisions of Senate Rule 51(b), the President and Presiding Officer of the Senate ordered said Bill, HB 127, referred to the Standing Committee on Commerce, Transportation, and Utilities.

REPORTS OF COMMITTEES RESUMED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. Turner (With Substitute) (With Amendment):

H. 248. To levy an additional two and one-half mill ad valorem tax and an additional five mill ad valorem tax and provide for the distribution of the respective proceeds therefrom, to provide that the aforesaid levies shall be contingent upon the approval by the qualified electors of the state of, in the case of the two and one-half mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 252 at the 1992 Regular Session of the Legislature, and in the case of the five mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 242 at the 1992 Regular Session of the Legislature.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Rep. Turner:

H. 242. To propose an amendment to the Constitution of Alabama of 1901, authorizing, under certain conditions, the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed fifty one-hundredths of one percentum on the value of the taxable property within the state and providing for the distribution of the proceeds to be derived from said special tax for certain specified purposes.

The above Bill was read a second time at length as required by the Constitution.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Rep. Rich (With Substitute) (With Amendments):

H. 281. To hereby repeal the statutory earmarking of certain state revenue sources.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Rep. McKee (With Substitute):

H. 234. To establish the Commission on Economy and Productivity to study and analyze the operation and administration of each agency of state government to determine the means, methods, and manner by which the services of the state may be afforded to the citizens in the most efficient, expeditious, and economical manner; to provide for the appointment, term of office, payment of expenses, functions, and duties of the members of the commission, to provide for a Legislative Oversight Committee; and to provide for a conditional implementation.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Rep. Campbell (With Amendments):

H. 244. To create the Intangible Property Tax Act of 1992; to provide for the levy and disposition of a tax on intangible property with certain exceptions; and to repeal sections 40-24-1 through 40-24-8, inclusive, Code of Alabama 1975.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Horn (With Substitute):

S. 541. To amend the Constitution of Alabama of 1901, by proposing amendments to Sections 217 (as amended by Amendment 373), 229 (as amended by Amendment 27), 232 (as amended by Amendment 473), of the Constitution of Alabama of 1901 and Amendment 25 of the Constitution and to repeal Sections 91 and 261 and to repeal Amendments 61, 212, 225 and 448 of the Constitution of 1901 so as to provide for the assessment of all property in three classifications; to provide for homestead and other exemptions; to permit but not require the Legislature to impose corporate franchise taxes; to authorize the imposition of an income tax; to repeal the requirement for personal exemptions in the income tax; to modify the earmarking of the income tax; to repeal the requirement that the federal income tax be deductible in computing net income. In addition, this bill would authorize the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed twenty-five one-hundredths of one percent on the value of the taxable property within the state and provide for the distribution of the proceeds to be derived from said special tax for certain specified purposes. This bill would also limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; provide a procedure for appropriation of balances; provide a procedure for supplemental appropriations during special sessions; provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; provide a procedure for appropriations of revenue-raising measures; provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; provide an automatic emergency budgetary special session if the Legislature fails to meet its deadlines; provide time frames for the return of appropriation bills by the Governor; to provide that the provisions of this proposed amendment to the Constitution shall be linked to the enactment and ratification of certain bills introduced in the 1992 Regular Legislative Session and also to provide election procedures for this proposed amendment to the Constitution.

The above Bill was read a second time at length as required by the Constitution.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the

following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Venable:

H. 228. To amend Sections 16-47-30, 16-48-5, 16-49-20, 16-50-20, 16-51-3, 16-52-3, 16-53-3, 16-54-2, 16-55-2, 16-55-5, and 16-56-3, and to repeal Section 16-55-5 of the Code of Alabama 1975, relating to boards of trustees of certain public colleges and universities in the State of Alabama to provide for classes in trusteeship for members of boards of trustees.

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 385. To amend Section 16-3-18.2 of the Code of Alabama 1975, to require local boards of education to establish voluntary tutorial programs.

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 384. To provide for school attendance standards and the operation of motor vehicles by certain persons; and to provide a prospective effective date.

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 383. To require local boards of education to provide to certain students instruction in parental responsibility, the importance of an education, and how to study.

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 382. To amend Section 16-3-18.3 of the Code of Alabama 1975, to require certain 10th grade students to enter a vocational or technical curriculum, unless the parent or guardian objects; and to provide for the competency measurement level of the Alabama High School Graduation Exam.

By Reps. Harper, Flowers, and Harvey:

H. 615. To further provide for the privilege tax on nursing facilities and hospitals and to amend Sections 40-26B-20, 40-26B-21, 40-26B-25, 40-26B-40, 40-26B-41, 40-26B-43, and 40-26B-45, Code of Alabama 1975.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators deGraffenried, Parsons, Little, Barron, and Campbell (With Amendment):

S. 381. To amend Section 16-28-12 of the Code of Alabama 1975, relating to the responsibility of a parent, guardian, or person in charge of a child to ensure that the child enrolls and attends school and conducts himself or herself properly as a pupil; to require principals and superintendents to report suspected violations to the district attorney, to provide criminal penalties for failure to report, and to require district attorneys to vigorously enforce the law; to require local boards of education to establish programs to inform parents of school children of their education-related responsibilities to their children.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. Harper, Flowers, and Harvey:

H. 614. To provide for the funding and operation of the medicaid program by requiring the transfer of moneys from publicly-owned hospitals to the Alabama Mothers and Babies Indigent Care Trust Fund; to authorize the Alabama Medicaid Agency to determine, pursuant to regulation, the amount of transfers due; to provide for the collection of the moneys and penalties, and for the maintenance of records by the hospitals; and to provide that this act shall remain effective only so long as adequate federal financial participation in the medicaid program is available.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Rep. Fuller (With Amendments):

H. 243. To amend Sections 40-7-25.1, 40-7-25.2, 40-7-25.3,

40-8-1, 40-9-1, and 40-11-1, Code of Alabama 1975, relating to current use valuation, the assessment of property, the rate of state ad valorem tax, exemptions from ad valorem taxation, and the subjects of taxation, and to repeal Sections 40-8-4, 40-8-5, 40-9-1.1, to 40-9-28, inclusive, Code of Alabama 1975.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Rep. Harper (With Substitute) (With Amendment):

H. 252. To amend the Constitution of Alabama of 1901, by proposing amendments to Sections 217 (as amended by Amendment 373), 229 (as amended by Amendment 27), 232 (as amended by Amendment 473), of the Constitution of Alabama of 1901 and Amendment 25 of the Constitution and to repeal Sections 91 and 261 and to repeal Amendments 61, 212, 225 and 448 of the Constitution of 1901 so as to provide for the assessment of all property in three classifications; to provide for homestead and other exemptions; to permit but not require the Legislature to impose corporate franchise taxes; to authorize the imposition of an income tax; to repeal the requirement for personal exemptions in the income tax; to modify the earmarking of the income tax; to repeal the requirement that the federal income tax be deductible in computing net income. In addition, this bill would authorize the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed twenty-five one hundredths of one percent on the value of the taxable property within the state and provide for the distribution of the proceeds to be derived from said special tax for certain specified purposes. This bill would also limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; provide a procedure for appropriation of balances; provide a procedure for supplemental appropriations during special sessions; provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; provide a procedure for appropriations of revenue-raising measures; provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; provide an automatic emergency budgetary special session if the Legisla-

ture fails to meet its deadlines; provide time frames for the return of appropriation bills by the Governor; to provide that the provisions of this proposed amendment to the Constitution shall be linked to the enactment and ratification of certain bills introduced in the 1992 Regular Legislative Session and also to provide election procedures for this proposed amendment to the Constitution.

The above Bill was read a second time at length as required by the Constitution.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 665. To further provide for the issuance of obligations by the Alabama Federal Aid Highway Finance Authority and for the use of proceeds of obligations of the authority for the purpose of anticipating and providing for the federal share of the cost of constructing federal aid projects on the state highway system; for this purpose amending Sections 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-313, 23-1-314, and 23-1-317, Code of Alabama 1975.

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, McDaniel, Sanderford, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 666. To amend Section 40-17-31 of the Code of Alabama 1975, to increase the excise tax for gasoline by \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services School District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to

provide for the distribution of the supplemental net tax proceeds; to amend Section 40-17-81 of the Code of Alabama 1975, to provide that the State Treasurer shall make all allocations and distributions of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

By Reps. Clark (J), Harvey, Campbell, Drake, Gullatt, Carter, Newton (D), Harper, Richardson, Hooper, McClain, White, Smith (R), Rich, Turner, Starkey, Beasley, and Penry:

H. 669. To amend Section 40-17-2 of the Code of Alabama 1975, to levy an additional excise tax of \$.05 per gallon upon the selling, using, or consuming, distributing, storing, or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; and to provide for the effective date of this act.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Rep. Harper (With Substitute) (With Amendments):

H. 245. To provide for the Alabama Transaction Tax Act of 1992; to amend Sections 11-51-180 to 11-51-182, inclusive, 11-100-3, 11-100-4, 11-100-7, 16-15-11, 16-16-11, 40-12-4, 40-12-6, 40-12-7, 40-21-85, 40-21-106, 40-21-122, and 40-29-73, Code of Alabama 1975; to repeal Sections 11-51-200 to 11-51-207, inclusive, 34-27-65, 40-12-220 to 40-12-227, inclusive, 40-23-1 through 40-23-121, inclusive, and 40-26-1 through 40-26-21, inclusive, Code of Alabama 1975.

REPORT FROM CONFIRMATIONS

Senator Foshee, Chairperson of the Standing Committee on Con-

firmations, reported that said Committee, in session, had acted on the following Governor's Appointment and ordered same returned to the Senate with a favorable report, to-wit:

Appointment of Frank Mason to the Ethics Commission

On motion of Senator Foshee, the appointment of Mr. Mason was confirmed by the Senate.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (J), Waggoner, and Windom -23

Nay: Senator Corbett

- 1

Senator Dial moved that the Senate reconsider the vote by which the appointment of Mr. Mason was confirmed by the Senate, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State Ethics Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 9th day of April, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. H. Dean

Buttram, Jr., of Centre, Alabama, to the State Ethics Commission. He will be replacing Mr. James Anderson and his term will expire on September 1, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 9th day of April, 1992.

On motion of Senator Foshee, the Rules were suspended and the appointment of Mr. Buttram was confirmed by the Senate.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (J), Waggoner, and Windom -25

Nays:

- 0

Senator Corbett moved that the Senate reconsider the vote by which the appointment of Mr. Buttram was confirmed by the Senate, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

MOTIONS IN WRITING

Senator Corbett offered the following Motions in Writing, to-wit:

I move that the Bill, HB 154, on page 114 of the 21st Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, HB 52, on page 114 of the 21st Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, HB's 154 and 52, referred to the Standing

Committee on Rules for placement on the Consent Calendar.

Senator Smith (J) offered the following Motion in Writing, to-wit:

I move that the Bill, HB 491, on page 107 of the 21st Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, HB 491, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Windom offered the following Motion in Writing, to-wit:

I move that the Bill, HB 131, on page 121 of the 21st Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, HB 131, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTIONS

Senator Mitchell offered the following Senate Joint Resolution, to-wit:

SJR 90. URGING THE ALABAMA DEVELOPMENT DISABILITIES PLANNING COUNCIL AND THE DEPARTMENT OF MENTAL HEALTH AND RETARDATION, IN COOPERATION WITH OTHER INDIVIDUALS AND GROUPS, TO DEVELOP A COMPREHENSIVE FAMILY AND SUPPORT PLAN FOR DISABLED PERSONS AND NEEDED LEGISLATION.

WHEREAS, persons with disabilities and families of persons with disabilities in challenging life circumstances have the same strengths, but face many additional obstacles, including financial pressure, isolation, stigmatization, daily stress, and concerns for the future well-being of their children and themselves; and

WHEREAS, each disabled person has inherent value as an individual and as a member of a family and community; and

WHEREAS, the uniqueness of each individual, family, and community must be respected and their gifts recognized and utilized; and

WHEREAS, communities should affirm, expect, and welcome family and individual contributions to all facets of community life; and

WHEREAS, persons with disabilities and families of persons with disabilities have the right to information, their own definition of supports they may need, options for choices, and the right to choose and exercise control over their own lives; and

WHEREAS, the family, however defined, must be valued and its uniqueness and expertise respected; and

WHEREAS, family and individual supports will focus on providing choices, developing partnerships among consumers, professionals, policymakers, and the community at large; and

WHEREAS, family and individual supports should strive to create an environment where the individual is empowered to make major life decisions that are taken for granted in everyday life by nondisabled people; and

WHEREAS, family and individual supports should encourage family stability; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we adopt the concepts set forth in this resolution and affirm the value of the integrity of all families and the rights of individuals with disabilities to grow up in families as full citizens and integrated participants in all aspects of community life.

BE IT FURTHER RESOLVED, That the Legislature urges the Alabama Developmental Disabilities Planning Council and the Department of Mental Health and Mental Retardation, in cooperation with persons with disabilities, families of persons with disabilities, government entities, service providers, advocacy organizations, and the community to develop a comprehensive family and individual support plan and any needed supportive legislation or budget request to be presented to the Legislature during the next Regular Session.

On motion of Senator Mitchell, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Windom offered the following Senate Joint Resolution, to-wit:

SJR 91. MOURNING THE DEATH OF FRED BEN REED

OF SPANISH FORT, BALDWIN COUNTY, ALABAMA.

WHEREAS, the Legislature of Alabama, in sorrow and regret, records the death of Fred Ben Reed of Spanish Fort, Baldwin County, Alabama, on February 24, 1992, at the age of 75 years; and

WHEREAS, Mr. Reed, a prominent and highly successful businessman, was the founder and longtime operator of the Atlantic Fish and Oyster Company in Mobile County; after selling that business and moving to Spanish Fort, he enjoyed a second successful career in real estate development, in Baldwin County; and

WHEREAS, in addition to the responsibilities of business, however, Mr. Reed was active in the community through service and support of a number of civic and charitable organizations; and

WHEREAS, in the death of Fred Ben Reed, the community has indeed suffered a deep and grievous loss which lies heavily upon the hearts of his family, neighbors and many friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Fred Ben Reed of Spanish Fort, Alabama, and extend our deepest and most heartfelt sympathy to his wife, Mrs. Kathryn A. Reed, and to his son, Mark B. Reed, whose sorrow we sincerely share and to whom copies of this resolution shall be forwarded.

On motion of Senator Windom, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Denton offered the following Senate Joint Resolution, to-wit:

SJR 92. DESIGNATING THE WEEK OF APRIL 26 - MAY 2, 1992, AND THE LAST WEEK IN APRIL ANNUALLY THEREAFTER, AS "BIG BROTHERS/BIG SISTERS OF ALABAMA APPRECIATION WEEK."

WHEREAS, the last week in April is observed annually as National Volunteer Appreciation Week; and

WHEREAS, Big Brothers/Big Sisters of America is a volunteer organization founded over 80 years ago to address the problems of juvenile delinquency, and the problems faced by those children who are economically deprived, or are living in single-parent or foster homes; and

WHEREAS, there are six chapters of Big Brothers/Big Sisters of America in Alabama: Greater Birmingham, North Alabama, the Shoals (Colbert, Lauderdale and Franklin Counties), Northeast Alabama, Tuscaloosa County, and Montgomery; and

WHEREAS, through a one-to-one relationship between a deprived child and an appropriate, adult role-model, many problems can be alleviated, or even solved, and Big Brothers/Big Sisters in Alabama have dedicated their efforts toward a goal of establishing, nurturing, and maintaining such a relationship with their Little Brothers or Little Sisters; and

WHEREAS, Big Brothers and Big Sisters, each of whom spends some three to five hours a week with a delinquent child, or a child living in a single-family or foster home, perform many of the everyday tasks of a normal home environment, but also frequently take time to teach new skills or hobbies to their Little Brothers or Sisters; and

WHEREAS, Big Brothers/Big Sisters is indeed an outstanding organization whose volunteers provide the essentials of love, care, encouragement and understanding to countless children and youth, and it is the desire of this body that Big Brothers/Big Sisters of Alabama be most particularly recognized for their commitment in service to the needs of our children; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest commendation of Big Brothers/Big Sisters of Alabama, and in appropriate recognition of outstanding volunteerism during National Volunteer Appreciation Week, we hereby designate the week of April 26 - May 2, 1992, and the last week in April annually thereafter, as "Big Brothers/Big Sisters of Alabama Appreciation Week," and do further direct that a copy of this resolution be forwarded to each of the six Big Brothers/Big Sisters of America chapters in Alabama.

On motion of Senator Denton, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Escott-Russell, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 264. DESIGNATING APRIL 14, 1992, AS "DELTA DAY" AT THE ALABAMA STATE HOUSE AND "DELTA SIGMA THETA DAY" IN THE STATE OF ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Langford, the Rules were suspended and the Resolution, HJR 264, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Bugg:

HJR 258. COMMENDING RON CASEY, HAROLD JACKSON AND JOEY KENNEDY FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT.

Also:

By Rep. Parker (T):

HJR 261. COMMENDING JOHN W. FOSTER FOR HIS PUBLIC SERVICE IN TUSCALOOSA COUNTY.

Also:

By Reps. Kennedy, Buskey (JE), Clark (W), Zoghby, Rockhold, Turner, Kvalheim, Gaston, Box, Harper, and Holmes:

HJR 262. MOURNING THE DEATH OF THE REVEREND CHARLES A. TUNSTALL OF MOBILE, ALABAMA.

Also:

By Reps. Drake and Bowling:

HJR 263. DESIGNATING THE "JAMES C. BAILEY CENTER FOR COMMERCE AND CONTINUING EDUCATION" AT WALLACE STATE COMMUNITY COLLEGE.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Langford, the Rules were suspended and the Resolutions, HJR's 258, 261, and 262, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

On motion of Senator Hale, the Rules were suspended and the Resolution, HJR 263, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

RESOLUTIONS

Senators Foshee, Little, and Corbett offered the following Senate Joint Resolution, to-wit:

SJR 93. MOURNING THE DEATH OF MAXWELL NEAL BROWN OF ENTERPRISE, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Legislature of Alabama records the death of Maxwell Neal "Jug" Brown of Enterprise, Alabama, on November 29, 1991, at the age of 72 years; and

WHEREAS, a native of Geneva, Alabama, Jug Brown became a part of the Enterprise community in 1939 and, in the early years of his career, worked for a time with Bama Mills, operated an insurance agency, and spent some time in the wholesale grocery business; and

WHEREAS, a natural for politics, he was appointed to the office of Mayor in 1954, and served for four consecutive terms; and

WHEREAS, over the course of his 18 years as Mayor, Enterprise evolved from a small country town of 7,000 to the thriving city it is today; and

WHEREAS, Jug Brown, a man of extraordinary character and ability, initiated many of the advances which led the city into an era of phenomenal growth and progress; he was instrumental in the establishment of the Enterprise Airport, a key factor in instituting Fort Rucker as the Army's aviation training post, and was responsible for stimulating residential development, thereby ensuring community confidence and stability, and also played a vital role in the building of the Bates Memorial Stadium, a new city hall, and the Enterprise Hospital and Nursing Home; and

WHEREAS, a member of the National Guard prior to World War II, he served during the war as a staff sergeant in the 117th Field Artillery Battalion, and was a founding member of the Bogardus S. Cairns Chapter of the Association of United States Army; and

WHEREAS, Jug Brown, following his tenure as Mayor, continued in service in such capacities as member of the Enterprise Hospital and Nursing Home Board for 17 years, including three terms as chairman, and through his association with Alabama Power Company in working with other mayors and city councils; he also served for 25 years on the Board of Stewards and as a Lay Speaker for the First United Methodist Church of Enterprise; and

WHEREAS, shortly before his death, the City of Enterprise, the Enterprise Hospital and Nursing Home Board and the Chamber of Commerce honored him with a reception and declared a "Jug Brown Day" in tribute to a man who had devoted his life in unselfish and devoted service to the community he loved; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Maxwell Neal "Jug" Brown of Enterprise, Alabama, and extend our deepest and most heartfelt sympathy to his loving wife, Helen Brown; sons, Neal, Tim, and Ed Brown; and to other family members, for whom a copy of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the

Resolution was adopted by the Senate.

Senator Little offered the following Senate Joint Resolution, to-wit:

SJR 94. NAMING THE "HOBART L. LOVE CHAPEL" AT JULIA TUTWILER PRISON.

WHEREAS, the late Hobart L. Love assumed a leadership role in the area of prison ministry, and was the primary impetus for the construction of the Chapel at Julia Tutwiler Prison; and

WHEREAS, through various speaking engagements and countless other endeavors, Mr. Love worked tirelessly to raise the funds necessary to build the chapel, and was present, on a daily basis, to supervise each phase of construction; and

WHEREAS, in other support of prisoners and their families, Mr. Love made frequent visits to various penal institutions, providing friendship and encouragement to prisoners and, on numerous occasions, used his own money to help meet their needs and those of their families; and

WHEREAS, widely and affectionately called "Brother Love" by prisoners and their family members, he served as a beacon of hope for their future, and as a guiding light in times of darkness and despair; and

WHEREAS, in tribute to the life and service of Hobart L. Love on behalf of others, it is both fitting and desirable that his good works and deeds be commemorated in a lasting and appropriate manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and memory of the late Hobart L. Love for whose life we are grateful, we hereby name and designate the Chapel at Julia Tutwiler Prison as the "Hobart L. Love Chapel," and do further authorize the proper officials to erect and maintain appropriate signs and markers so designating "Hobart L. Love Chapel."

BE IT FURTHER RESOLVED, That a copy of this official designation by the Legislature be provided for the family of the late Hobart L. Love.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett,

Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 95. MOURNING THE DEATH OF ANGELO BRUNO, MAY 29, 1924 - DECEMBER 11, 1991.

WHEREAS, it is with deep and abiding sorrow that the Legislature of Alabama records the lamentable death of Angelo Bruno on December 11, 1991, at the age of 67 years; and

WHEREAS, Mr. Bruno, chairman of the board of Bruno's, Inc., lost his life in the crash of the corporation's jet, perishing with his brother, Lee Bruno, and seven other company employees and officials; and

WHEREAS, Angelo Bruno, the epitome of the meaning and success of our free enterprise system and the reality of the American dream, was a member of a family whose roots were planted in this country in the early 1900's with the arrival of his parents, Vincent and Maria Teresa Bruno, from Sicily; and

WHEREAS, following military service in the Pacific during World War II, Angelo Bruno joined the family business established by his older brother, Joe Bruno, who purchased a small grocery store in 1932; from Bruno's Grocery, which grossed \$75 in its first week of operation, the Bruno chain grew to include the Bruno and Consumer Warehouse stores, Food Fair and Food World, as well as Big B, a drugstore chain started in 1968 that became a separate company in the early 1980's; and

WHEREAS, Angelo Bruno, although a man of great personal wealth, was first and foremost a man of consummate generosity and profound concern for others; through tireless leadership and monetary support, he gave unstintingly of his time and assets to schools, churches, charities, hospitals and the cultural arts, and, in countless other ways, labored unceasingly to the betterment and well-being of community and state; and

WHEREAS, among the many beneficiaries of his philanthropy is the University of Alabama which was the recipient recently of a \$4 million gift by Mr. Angelo Bruno and his wife, Ann, to fund a new business library and computer center at the Tuscaloosa campus; this represents the single largest sum ever given to the University, and is indicative of the importance placed on education by Mr. and Mrs. Bruno

as the key to the future of our state; and

WHEREAS, the death of Angelo Bruno is indeed a source of immense sorrow to the people of the State of Alabama whose lives and future are infinitely better for his having lived; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Angelo Bruno of Birmingham, Alabama, and extend our deepest and most heartfelt sympathy to his wife, Mrs. Ann Massina Bruno; sons, Ronald, Kenneth, Alan and David Bruno; daughter, Suzanne Bruno Brownness; and to other family members, whose sorrow we sincerely share and for whom copies of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 96. MOURNING THE DEATH OF LEE BRUNO, JANUARY 21, 1922 - DECEMBER 11, 1991.

WHEREAS, the Legislature of Alabama grievously records the death of Lee Bruno of Birmingham, Alabama, on December 11, 1991, at the age of 70 years; and

WHEREAS, Mr. Lee Bruno, vice chairman of the board and senior vice president of Bruno's, Inc., perished in the crash of the Bruno corporate jet, along with eight other victims, including his brother, Angelo Bruno; and

WHEREAS, the son of Vincent and Maria Teresa Bruno, who immigrated from Sicily in 1908, Lee Bruno was a central figure in the success of the Bruno supermarket dynasty and its spin-off company, the Big B drugstore chain, which all began in 1932 with the purchase by his brother, Joe Bruno, of a small grocery store in downtown Birmingham; and

WHEREAS, Mr. Lee Bruno, whose significant contributions to

the family business, helped spur the phenomenal growth begun and continued by Joe Bruno, together with Lee and Angelo and other family members who, over the years, have applied the old-fashioned work ethic to build their American dream; and

WHEREAS, although a highly successful and wealthy man, Lee Bruno received his greatest satisfaction, not from tangible assets, but from his family, and through service to others less fortunate than he; throughout his lifetime he gave generously to innumerable causes, including Birmingham-Southern College, St. Vincent's Medical Center, the University of Alabama at Birmingham, the Birmingham United Way Food Bank, among many others, and most recently, he and his wife, Nancy, gave a substantial sum to the endowment fund of Birmingham's Saint Rose of Lima Academy that young students might have the opportunity to be educated in the Catholic faith; and

WHEREAS, Lee Bruno was an extraordinarily kind and generous man whose gifts so richly blessed the lives of others, as God had blessed his, and his death has left his beloved family and the people of Alabama sorely bereft in grief; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life and service of Lee Bruno of Birmingham, Alabama, and extend sincerest sympathy to his wife, Mrs. Nancy Marino Bruno; his daughter, Carol Bruno Rumore, and son, Vincent Bruno; and to other family members, whose sorrow also is ours, and for whom copies of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 97. MOURNING THE DEATH OF SAM A. VACARELLA, APRIL 26, 1948 - DECEMBER 11, 1991.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of Sam A. Vacarella on December 11, 1991, at the age of just 43 years; and

WHEREAS, Mr. Vacarella perished in the crash of the Bruno corporate jet, as did eight other company officials and employees, including Angelo and Lee Bruno, while making the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, Sam Vacarella, a graduate of Ramsay High School and Jacksonville State University, had been an employee of Bruno's for 25 years; beginning as a grocery sacker, he worked his way up to grocery buyer, and thereafter held several corporate positions in the grocery department until his promotion in 1991 to senior vice president-merchandising; and

WHEREAS, a man of great fairness and morality, Mr. Vacarella was a compassionate person who cared deeply for others; he was a loyal and dedicated employee, and a true friend to each and every member of the Bruno company family, all of whom are sorely grieved in the loss of their beloved co-worker; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of Sam A. Vacarella of Birmingham, Alabama, and extend heartfelt sympathy to his wife, Mrs. Patsy Vacarella; to his daughter and son, Andra Leigh and Patrick; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 98. MOURNING THE DEATH OF EDWARD C. HYDE, JULY 20, 1951 - DECEMBER 11, 1991.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of Edward C. Hyde of Birmingham, Alabama, on December 11, 1991, at the age of just 40 years; and

WHEREAS, Mr. Hyde perished in the crash of the Bruno corpo-

rate jet, as did eight other company officials and employees, including Angelo and Lee Bruno, while making the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, Edward Hyde, an alumnus of Jefferson State College, was an employee of Bruno's, Inc., for the past 25 years, beginning with part-time work while a 16-year old student at Hueytown High School; after serving in the United States Army for three years, he returned to Bruno's and worked his way up from stock clerk to assistant manager, manager, grocery merchandiser, district manager and director of marketing, before being promoted to vice president of store operations; and

WHEREAS, a devoted family man and dedicated in service to the Adamsville Assembly of God Church, where he served on the Church Board, Mr. Hyde was a warm and caring person and, through genuine concern for others, willingly extended a helping hand to those in need; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of Edward C. Hyde of Birmingham, Alabama, and extend heartfelt sympathy to wife, Mrs. Carol Hyde; sons, Adam and Evan; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 99. MOURNING THE DEATH OF R. RANDOLPH PAGE, JR., NOVEMBER 25, 1942 - DECEMBER 11, 1991.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of R. Randolph Page, Jr., of Birmingham, Alabama, on December 11, 1991, at the age of just 49 years; and

WHEREAS, Mr. Page perished in the crash of the Bruno corpo-

rate jet, as did eight other company officials and employees, including Angelo and Lee Bruno, while making the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, a native of Hot Springs, Arkansas, and a graduate of Henderson University, Mr. Page had been an employee of Bruno's, Inc., since 1972, serving as vice president-personnel; he received his law degree in 1976 from Oklahoma City University's School of Law and was licensed to practice law in the State of Alabama, Federal District Court, and in the Eighth and Eleventh Circuit Courts of Appeals; prior to joining Bruno's, he was employed with the Kroger Company and then with Chastain/Roberts, now Super Valu; and

WHEREAS, Randy Page, a man of high moral character, also possessed such sterling attributes as intelligence, patience, understanding and geniality; he further was a man of great enthusiasm, a contagious trait he transmitted to his family, friends and co-workers, all of whom are inconsolable in their loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of R. Randolph Page, Jr., of Birmingham, Alabama, and extend heartfelt sympathy to his wife, Mrs. Phyllis Page; his son and daughter, Robert and Denise; to his son-in-law, Brian, and grandson, Eric; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 100. MOURNING THE DEATH OF KARL MOLLIKA, NOVEMBER 3, 1954 - DECEMBER 11, 1991.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of Karl Mollica of Birmingham, Alabama, on December 11, 1991, at the age of just 37 years; and

WHEREAS, Mr. Mollica perished in the crash of the Bruno corporate jet, as did eight other company officials and employees, including Angelo and Lee Bruno, while making the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, an exemplary employee, who was both hardworking and ambitious, Mr. Mollica joined Bruno's, Inc., 20 years ago, following graduation from Foley High School; beginning as a produce clerk, he then rose rapidly through the ranks as produce manager, co-manager of a Food World store, produce specialist, and to director of produce, his position at the time of his death; and

WHEREAS, Karl Mollica, in both word and deed, was deeply dedicated to home, family and work; he was filled with enthusiasm for life and was a special person to all those whose lives he touched; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of Karl Mollica of Birmingham, Alabama, and extend heartfelt sympathy to his wife, Mrs. Cynthia Mollica; their son, Brandon; daughters, Lauren and April; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

**SJR 101. MOURNING THE DEATH OF ROBERT B. STAMPS
III MAY 2, 1964 - DECEMBER 11, 1991.**

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of Robert B. Stamps III of Birmingham, Alabama, on December 11, 1991, at the age of just 27 years; and

WHEREAS, Mr. Stamps lost his life, along with eight other officials and employees of Bruno's, Inc., including Angelo and Lee

Bruno, when the company's plane crashed into a Georgia mountain after encountering dense fog enroute to Huntsville, Alabama, to continue the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, a graduate of Shades Valley High School, and of the University of Montevallo where he was a member of Pi Kappa Phi fraternity, Mr. Stamps had been employed by Bruno's, Inc., as an aircraft pilot for some four years; a very cautious and experienced pilot, he had logged more than 3,500 hours in the air during his career and was a flight instructor at the Birmingham Flight School; and

WHEREAS, a fine young man with boundless enthusiasm for life, Rob Stamps was a special person to all who knew him as a thoughtful and caring friend, and who affectionately referred to him as the "all American guy," as did his family and company co-workers at Bruno's; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of Robert B. Stamps III of Birmingham, Alabama, and extend heartfelt sympathy to his parents, Mr. and Mrs. Robert B. Stamps, Jr., of Shelby County, and to his sister and other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

**SJR 102. MOURNING THE DEATH OF JOHN TESNEY,
MAY 27, 1932 - DECEMBER 11, 1991.**

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the death of John Tesney of Birmingham, Alabama, on December 11, 1991, at the age of 59 years; and

WHEREAS, Mr. Tesney lost his life, along with eight other officials and employees of Bruno's, Inc., including Angelo and Lee

Bruno, when the company's plane crashed into a Georgia mountain after encountering dense fog while enroute to Huntsville, Alabama, to continue the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, an employee of Bruno's for almost 20 years, Mr. Tesney was an aircraft pilot who was with the company's Vidalia division until transferring to Birmingham some four years ago; a veteran of the Korean Conflict, he began flying as an Army Reservist in 1957 and was widely acknowledged as an excellent pilot, and as a highly-regarded and special person to all those privileged to his friendship; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of John Tesney of Birmingham, Alabama, and extend heartfelt sympathy to his wife, Mrs. Madeline Tesney; to his three sons, a daughter, three stepsons and one granddaughter; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators deGraffenried, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom then offered the following Senate Joint Resolution, to-wit:

SJR 103. MOURNING THE DEATH OF MARY FAUST, JULY 19, 1950 - DECEMBER 11, 1991.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the untimely death of Mary Faust of Birmingham, Alabama, on December 11, 1991, at the age of just 41 years; and

WHEREAS, Ms. Faust perished in the crash of the Bruno corporate jet, as did eight other company officials and employees, including Angelo and Lee Bruno, while making the traditional holiday visits to Bruno stores throughout the Southeast; and

WHEREAS, a graduate of Birmingham-Southern College, Ms. Faust was senior vice president and a partner in Steiner/Bressler, the

Bruno's, Inc., advertising agency; she began her career with the agency as Bruno's account supervisor and was promoted to her corporate positions two years ago; and

WHEREAS, Mary Faust, a person of strong spirit, extraordinary ability and high professional standards, was thoroughly knowledgeable in both the supermarket business and advertising field; although her work consumed much of her time, she had remained active in alumna support and leadership of Alpha Chi Omega sorority since college graduation, and was devoted to her family, co-workers and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable death of Mary Faust of Birmingham, Alabama, and extend heartfelt sympathy to her mother, Mrs. Lois Starkweather; sister, Donna Enensen; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided that they may know of our shared sorrow in their great and grievous loss.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 296. To make a supplemental appropriation of \$675,000 from the Alcohol and Drug Abuse Court Referral Officer Trust Fund to the Mandatory Drug Treatment Program for the fiscal year ending September 30, 1992.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title

had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 64. COMMENDING VINCENT K. MOONEY, UNITED STATES MARINE CORPS, FOR DISTINGUISHED SERVICE DURING OPERATION DESERT STORM.

Also:

SJR 69. MOURNING THE DEATH OF TALLULAH PITMAN OF MOBILE, ALABAMA.

Also:

SJR 72. COMMENDING THE VESTAVIA HIGH SCHOOL GIRLS GYMNASTICS TEAM ON THE 1992 STATE CHAMPIONSHIP.

Also:

SJR 80. COMMENDING SCOTT PAPER COMPANY ON ITS PROPOSED MAJOR CAPITAL INVESTMENT PROGRAM AND ITS CONTINUING SUPPORT OF THE MOBILE COUNTY SCHOOLS.

Also:

SJR 82. COMMENDING PEARL COLLIER FOR OUTSTANDING SERVICE TO THE MARSHALL COUNTY RETIRED SENIOR VOLUNTEER PROGRAM.

Also:

SJR 83. COMMENDING COACH JOHN KITCHENS AND THE SNEAD STATE JUNIOR COLLEGE WOMEN'S BASKETBALL TEAM.

Also:

SJR 84. COMMENDING DR. ELLIS F. PORCH OF ARAB,

ALABAMA, FOR OUTSTANDING SERVICE TO OTHERS.

Also:

SJR 85. COMMENDING VESTAVIA HILLS HIGH SCHOOL ON ITS RECOGNITION AS THE BEST HIGH SCHOOL IN ALABAMA.

GREG PAPPAS,
Clerk.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 104. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following in the order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

1. Finance and Taxation Committee to report at any time.

Page

H. 221

117

Education accountability act, appt. of supts. of ed., teacher suspension and tenure, city system defined, oath, hearings, nontenured principals, numerous sections amended and repealed

H. 227

116

Commission on the Governance of Higher Ed., created

H. 240

115

Income tax on net income of ind., trusts and estates; based on fed. tax income, numerous code sections repealed

H. 247

115

Revenue Dept., reporting of abated property to

H. 246

119

Ad valorem tax abatement, except taxes for school purposes, Secs. 4-3-8, 4-3-59, 11-54-31, 11-54-61, 11-54-96, 11-54-150, 11-54-183, 11-54A-14, 11-56-21, 11-94-19,

11-92A-18, 41-10-61, 41-10-107 am'd., Secs. 40-9-40
through 40-9-49 repealed

H. 319 120
Personnel Control Committee established, powers and duties
prescribed for review of hiring requests

On motion of Senator Preuitt, the Resolution was adopted by the
Senate.

**UNFINISHED BUSINESS
BILLS ON THIRD READING**

The Senate proceeded to consideration of the Unfinished Business
for today, which was the Bill:

H. 239. Proposing an Amendment to the Constitution of
Alabama of 1901, to authorize and require the levy of a minimum local
ad valorem tax for school purposes in each school district in the state
and to provide the procedure to further increase local ad valorem taxes in
school districts.

The question was on the Committee amendment to the Committee
substitute, which said amendment and substitute are set out in the
Journal of the Senate for the Twentieth Legislative Day.

And said amendment was then adopted.

The Standing Committee on Finance and Taxation then reported
the following amendment No. 2 to the substitute, as amended, for the
Bill, HB 239, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE,
AS AMENDED, FOR HB 239**

Amend the substitute, as amended, for House Bill 239, on Page 2,
Line 12, after the word "provisions" by inserting the following:

"of Section A".

Further amend on Page 4, after Line 29, by inserting the fol-
lowing language:

"Upon the approval by a majority of the qualified electors of the
state voting on this amendment to this constitution, Section B of this

amendment shall become effective immediately."

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the substitute, as amended, for HB 239, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE,
AS AMENDED, FOR HB 239**

Amend the substitute, as amended, for House Bill 239, on Page 2, after Line 24, by adding the following language:

"Provided, however, that such special ad valorem tax shall not be required to be collected in any school district, (1) with respect to the ad valorem tax year commencing October 1, 1992, at a rate that, when added to the credited millage applicable to such school district during such tax year, shall exceed the said credited millage plus five mills on each dollar of the assessed value of taxable property in said district, (2) with respect to the ad valorem tax year commencing October 1, 1993, at a rate that, when added to the credited millage applicable to such school district during such tax year, shall exceed the said credited millage plus 10 mills on each dollar of the assessed value of taxable property in said district, and (3) with respect to the ad valorem tax year commencing October 1, 1994, at a rate that, when added to the credited millage applicable to such school district during such tax year, shall exceed the said credited millage plus 15 mills on each dollar of the assessed value of taxable property in said district."

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Preuit, Smith (J), Waggoner, and Windom

-24

Nays:

- 0

Senator Foshee offered the following amendment to the Bill, HB

239, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 239, AS AMENDED

On page 3, line 2, add the following at the end of the line:

The minimum ad valorem tax required by this constitutional amendment in any county shall be reduced by the amount of any sales and use tax for schools levied on a county-wide basis in that county as follows: Each year as soon as practical after October 1, the county tax assessor shall determine the amount of revenue produced from the county-wide sales and use tax for schools and shall reduce the number of mills of ad valorem tax assessed for that tax year to produce an equal amount of revenue as 20 mills of ad valorem tax would produce less the amount of revenue produced by the county-wide sales and use tax for schools during the prior fiscal year.

On page 3, line 5, delete the word "The" at the beginning of the line and insert in lieu thereof the following:

Except as provided in subdivision (1) of this section, the

Which was lost.

Yeas 7 Nays 24

Yeas:

Senators:

Bailey, Bedsole, Bolling, Dixon, Foshee, Lipscomb, and Mitchell - 7

Nays:

Senators:

Amari, Barron, Bennett, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom -24

Senator Lipscomb offered the following amendment to the Bill, HB 239, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 239, AS AMENDED

On page 3, line 12, after the period, insert the following language:

However, once the 20 mills minimum is reached statewide, when any jurisdiction is above the state per pupil average as determined annu-

ally by the State Board of Education, the governing authority may reduce the rate of tax in an amount to adjust the tax rate in the jurisdiction to equal the state per pupil average.

Which was adopted.

Yeas 29 Nays 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Waggoner, Wilson, and Windom -29

Nay: Senator Preuitt

- 1

Senator Bolling offered the following amendment to the Bill, HB 239, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 239, AS AMENDED

Amend House Bill 239, as amended by the substitute, as amended, on page 3 by deleting line 31 in its entirety and inserting in lieu thereof the following:

"county board of education of any county or the city board of education of any"

Further amend on page 4, line 21 after the word "levied" by inserting the following:

"by a county or city board of education".

Which was adopted.

Yeas 26 Nays 2

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Dixon, Ellis, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom -26

Nays:

Senators:

Foshee and Mitchell

- 2

Senator Bolling then offered the following amendment No. 2 to the Bill, HB 239, as amended by the substitute, as amended, to-wit:

AMENDMENT NO. 2 TO HB 239, AS AMENDED

Amend House Bill 239, as amended by the substitute, as amended, on page 3 line 28 by striking the period and by inserting the following language:

"; provided, however, nothing in this subsection nor in this act shall be construed so as to prohibit a municipality which levies any taxes in effect on January 1, 1992 for the financial support of a county school system from repealing any or all of those taxes at some future date."

Which was adopted.

Yeas 28 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), Smith (J), Waggoner, and Windom -28

Nays:

- 0

And said Bill, HB 239, as amended by the substitute, as amended, was read a third time at length as required by the Constitution and passed.

Yeas 27 Nays 4

Yeas:

Senators:

Amari, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (J), Waggoner, and Windom -27

Nays:

Senators:

Bailey, Dixon, Foshee, and Lipscomb

- 4

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 64. COMMENDING VINCENT K. MOONEY, UNITED STATES MARINE CORPS, FOR DISTINGUISHED SERVICE DURING OPERATION DESERT STORM.

Also:

SJR 69. MOURNING THE DEATH OF TALLULAH PITMAN OF MOBILE, ALABAMA.

Also:

SJR 72. COMMENDING THE VESTAVIA HIGH SCHOOL GIRLS GYMNASTICS TEAM ON THE 1992 STATE CHAMPIONSHIP.

Also:

SJR 80. COMMENDING SCOTT PAPER COMPANY ON ITS PROPOSED MAJOR CAPITAL INVESTMENT PROGRAM AND ITS CONTINUING SUPPORT OF THE MOBILE COUNTY SCHOOLS.

Also:

SJR 82. COMMENDING PEARL COLLIER FOR OUTSTANDING SERVICE TO THE MARSHALL COUNTY RETIRED SENIOR VOLUNTEER PROGRAM.

Also:

SJR 83. COMMENDING COACH JOHN KITCHENS AND THE SNEAD STATE JUNIOR COLLEGE WOMEN'S BASKETBALL TEAM.

Also:

SJR 84. COMMENDING DR. ELLIS F. PORCH OF ARAB, ALABAMA, FOR OUTSTANDING SERVICE TO OTHERS.

Also:

SJR 85. COMMENDING VESTAVIA HILLS HIGH SCHOOL

ON ITS RECOGNITION AS THE BEST HIGH SCHOOL IN ALABAMA.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Executive amendment to the Resolution:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

by a majority of those voting, by a voice vote.

And said Resolution, SJR 18, together with the Executive amendment, is herewith returned to the Senate.

GREG PAPPAS,
Clerk.

BUDGET ISOLATION RESOLUTION

Senator Mitchem, B.I.R., HB 287, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, and Smith (J) -25

Nays:

- 0

FURTHER CONSIDERATION OF HB 287

The Senate proceeded to further consideration of the Bill:

H. 287. Relating to employment security programs of the Department of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992; to provide for the collection, appropriation, and disbursement of such assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment: to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; and to clarify the procedure for determining shared costs.

having been postponed on the Nineteenth Legislative Day, was taken up.

Senator Mitchem offered the following amendment to the Bill, HB 287, to-wit:

AMENDMENT TO HB 287

On page 1, line 37, delete the word "and"

On page 1, line 38, delete the period and insert in lieu thereof the following language:

; and to provide for retroactive effect.

On page 2, line 4, delete the word "Effective" and insert in lieu thereof the following language:

Retroactive to

On page 3, line 3, delete the language "on or after" and insert in lieu thereof the language:

retroactive to

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21st Day**

1505

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (J), and Windom
-24

Nays:

- 0

Senator Mitchem then offered the following amendment No. 2, to the Bill, HB 287, as amended, to-wit:

AMENDMENT NO. 2 TO HB 287, AS AMENDED

On page 1, line 25, delete the semicolon and insert in lieu thereof the following language:

and ending March 31, 1997;

On page 2, line 4, insert the following language after the second comma:

and ending March 31, 1997,

On page 15, line 35, delete the colon and insert in lieu thereof the following language:

and ending March 31, 1997:

Senator Corbett offered the following substitute amendment for the Mitchem amendment No. 2 to the Bill, HB 287, as amended, to-wit:

**SUBSTITUTE AMENDMENT FOR MITCHEM AMENDMENT NO. 2
TO HB 287, AS AMENDED**

Amend the Mitchem amendment No. 2 to House Bill No. 287, as amended, as follows:

On page 1, line 25, delete the semicolon and insert in lieu thereof the following language and ending March 31, 1995;

On page 2, line 4, insert the following language after the second comma:

and ending March 31, 1995,

On page 15, line 35, delete the colon and insert in lieu thereof the following language:

and ending March 31, 1995.

On motion of Senator Mitchem, said substitute amendment was laid on the table.

Yeas 15 Nays 8

Yeas:

Senators:

Amari, Bedsole, Bennett, Denton, Dial, Ellis, Floyd, Foshee, Hale, Lipscomb, Mitchell, Mitchem, Preuitt, Smith (B), and Smith (J) -15

Nays:

Senators:

Bailey, Corbett, Langford, Lindsey, Little, Parsons, Sanders, and Windom - 8

And said Mitchem amendment No. 2 was then adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Corbett, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom -25

Nays:

- 0

And said Bill, HB 287, as thus amended, was read a third time at length and passed.

Yeas 27 Nays 1

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom -27

Nay: Senator Corbett

- 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 8. Relating to the City of Helena in Shelby County; to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

Also:

S. 427. Relating to Colbert County, establishing a sheriff reserve within the county sheriff's department.

GREG PAPPAS,
Clerk.

RECESS

At 2:35 P.M., on motion of Senator Horn, the Senate took a recess until 4 o'clock P.M.

At 4 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 258. COMMENDING RON CASEY, HAROLD JACKSON AND JOEY KENNEDY FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT.

Also:

HJR 261. COMMENDING JOHN W. FOSTER FOR HIS PUBLIC SERVICE IN TUSCALOOSA COUNTY.

Also:

HJR 262. MOURNING THE DEATH OF THE REVEREND CHARLES A. TUNSTALL OF MOBILE, ALABAMA.

Also:

HJR 263. DESIGNATING THE "JAMES C. BAILEY CENTER FOR COMMERCE AND CONTINUING EDUCATION" AT WALLACE STATE COMMUNITY COLLEGE.

Also:

HJR 264. DESIGNATING APRIL 14, 1992, AS "DELTA DAY" AT THE ALABAMA STATE HOUSE AND "DELTA SIGMA THETA DAY" IN THE STATE OF ALABAMA.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

RESOLUTION

Senators Owens, Ellis, and Amari requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 105. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED EDUCATIONAL LEADERSHIP.

WHEREAS, Dr. John W. Stewart will retire as President of the University of Montevallo prior to the start of the next academic year; and

WHEREAS, Dr. Stewart assumed the presidency at a critical time in the University's history, and through dedicated, thoughtful, and persistent leadership, has secured the foundations by which its future as Alabama's liberal arts university is assured; and

WHEREAS, Dr. Stewart's tenure as president capped a career of educational leadership that began in the classroom at Alabama College and University of Montevallo, and subsequently as Chairman of the Department of Music, and as Dean of the College of Fine Arts; and

WHEREAS, he has exerted statewide leadership in support of funding formulas which promote excellence in teaching, and in support of tax and educational reforms, that have greatly contributed to the advocacy of these critical public issues for the benefit of Alabama; and

WHEREAS, Dr. Stewart's steady, sure, forthright, and gracious leadership style has been a model for all of education and will be sorely missed by this Legislature and by his colleagues; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby publicly commend, applaud, and salute Dr. John W. Stewart for his outstanding career of leadership in education, and particularly for the excellent service he has rendered to this state, and to the University of Montevallo as president thereof.

BE IT FURTHER RESOLVED, That as a token of our gratitude, esteem, affection, respect, and best wishes, a copy of this resolution shall be prepared for presentation to Dr. Stewart and University of Montevallo First Lady Lauris Stewart.

On motion of Senator Ellis, the Rules were suspended and the Resolution was adopted by the Senate.

BILL RECONSIDERED

Senator deGraffenried moved that the Senate reconsider the vote by which the Bill, HB 287, as amended, was passed, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolution with the original Senate Joint Resolution, and finds same correctly enrolled, to-wit:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolution, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 8. Relating to the City of Helena in Shelby County; to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

Also:

S. 427. Relating to Colbert County, establishing a sheriff reserve within the county sheriff's department.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

BUDGET ISOLATION RESOLUTION

Senator Floyd, B.I.R., HB 221, adopted.

Yeas 21 Nays 1

Yeas:

Senators:

Bedsole, Bennett, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Smith (B), Waggoner, and Windom -21

Nay: Senator Amari

- 1

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 221. To give the Act a title; to amend Section 16-6-1, Code of Alabama 1975 to require the appointment of fifteen members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission; to change the length of terms for members of the Alabama education study commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama 1975 to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama 1975 relating to the duties and responsibilities of the Standards on Excellence Commission, require the creation of an Education Master Plan to be approved by the state board of education, and to provide for the appointment of a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement of education, to provide for the appointment of this committee by the Alabama Education Study Commission and to provide that the commission shall develop plans for improving parental involvement in the educational process of children; to amend Section 16-8-1, Code of Alabama 1975 regarding the qualifications for membership on a county board of education to provide that a member of a county board of educa-

tion have a high school education or a G.E.D. equivalency and after election successfully complete state funded annual boardmanship training as provided by the Alabama Association of School Boards and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-2 of the Code of Alabama 1975, relating to terms of office for county board of education members, to provide further for the length of terms; to amend Section 16-8-23, Code of Alabama 1975 to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten (10) working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama 1975; to repeal Section 16-9-12, Code of Alabama 1975; to amend Section 16-11-2, Code of Alabama 1975 regarding the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete state funded annual boardmanship training as provided by the Alabama Association of School Boards or any other such organization which shall be approved by the State Board of Education or by legislative act and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama 1975 to provide that a city must have population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama 1975 to require that a city have a population of 5,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama 1975 to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama 1975; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama 1975 to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to amend Section 16-23-14, Code of Alabama 1975 to require the State Board of Education to authorize and prescribe minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evaluation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama 1975; to repeal Section 36-26-100,

through Section 36-26-108 Code of Alabama 1975; to define teacher, support employee, superintendent, and employing board; to establish criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties and evaluation of principals, to provide for an appeal of the evaluation of principals, to provide that a contract of an employee is effective until superseded or canceled, to provide that compensation may not be changed for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama 1975, and to repeal all conflicting laws.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 221, to-wit:

SUBSTITUTE FOR HB 221

**A BILL
TO BE ENTITLED
AN ACT**

To give the Act a title; to amend Section 16-6-1, Code of Alabama 1975 to require the appointment of fifteen members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission; to change the length of terms for members of the Alabama education study commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama 1975 to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama 1975 relating to the duties and responsibilities of the Standards on Excellence Commis-

sion, require the creation of an Education Master Plan to be approved by the state board of education, to provide that the commission shall develop plans for improving parental involvement in the educational process of children; to amend Section 16-8-1, Code of Alabama 1975 regarding the qualifications for membership on a county board of education to provide that a member of a county board of education have a high school education or a G.E.D. equivalency and after election successfully complete annual boardmanship training as provided by the Alabama Association of School Boards and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-2 of the Code of Alabama 1975, relating to terms of office for county board of education members, to provide further for the length of terms; to amend Section 16-8-23, Code of Alabama 1975 to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten (10) working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama 1975; to repeal Section 16-9-12, Code of Alabama 1975; to amend Section 16-11-2, Code of Alabama 1975 regarding the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete annual boardmanship training as provided by the Alabama Association of School Boards or any other such organization which shall be approved by the State Superintendent of Education or by legislative act and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama 1975 to provide that a city must have population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama 1975 to require that a city have a population of 15,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama 1975 to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama 1975; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama 1975 to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to provide for the election of the city board of education from nine single-member districts in Class I municipalities; to

amend Section 16-23-14, Code of Alabama 1975 to require the State Board of Education to authorize and prescribe minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evaluation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama 1975; to repeal Section 36-26-100, through Section 36-26-108 Code of Alabama 1975; to define teacher, support employee, superintendent, and employing board; to establish criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties of principals, to provide that a contract of an employee is effective until superseded or canceled, to provide that compensation may not be changed for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama 1975, and to repeal all conflicting laws.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This Act shall be known and may be cited as "The Education Accountability Act of 1992."

Section 2. Section 16-6-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-6-1.

(a) There is hereby created the Alabama Education Study Commission, herein called the commission, which shall constitute a permanent agency of the state and shall be composed of eight fifteen members, to be appointed for a term of six years, one from each congressional district, Seven members are to be appointed by the governor, for terms of eight years, two by the lieutenant governor, two by the speaker of the house, one by the state board of education, one by the Alabama Association of School Boards, one by the Alabama Education

Association, and one by the Business Council of Alabama. Of the members first appointed by the governor, two shall serve for a two year term, two shall serve for a three year term, two shall serve for a four year term, and one shall serve for a five year term. Of the members first appointed by the lieutenant governor and the speaker, one shall serve for a four year term and one shall serve for a six year term. The members appointed by the state board of education, the Alabama Association of School Boards, the Alabama Education Association, and Business Council of Alabama each shall serve a six year term. Of the members first appointed, two shall serve for two years, two shall serve for four years, two shall serve for six years and two shall serve for eight years. Vacancies shall be filled by the governor official or organization originally making the appointment for the unexpired term. The commission shall meet at times and places determined by it, and the members shall be entitled to receive \$30.00 such per diem and mileage as provided for state employees on actual meeting days.

(b) All current terms of members serving on the commission shall expire on the effective date of this Act."

Section 3. Section 16-6-2, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-6-2.

The commission shall elect a chairman from the persons appointed by the governor and a vice-chairman from among its the other members. Five Nine members of the commission shall constitute a quorum. The commission shall act only by a vote of a majority of its existing members."

Section 4. Section 16-6-5.1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-6-5.1.

(a) The legislature does hereby designate the Alabama education study commission as a standards on excellence commission. The commission is currently responsible for examining the public elementary and secondary schools and making an annual report on the status of public education to the general public, the legislature and the governor of the state of Alabama. It is the intent of the legislature that the Alabama education study commission shall examine the required courses, testing programs for teacher candidates, promotion and retention standards, student assessment programs and the performance-based

accreditation standards, as well as overall compliance under The Alabama Education Improvement Act of 1991 (Acts 1991, No. 91-323), and all present and future education reform efforts and report its findings to the governor, legislature, and the state board of education and the general public. The state department of education shall consult with the commission on all plans required by the Alabama Education Improvement Act of 1991, (Acts 1991, No. 91-323) and all present and future education reform efforts. In conjunction with the state superintendent, the commission shall develop an Education Master Plan for the State of Alabama. The Education Master Plan shall be designed for a ten year period and shall be updated annually. Once developed, the Education Master Plan shall be submitted to the state board of education for approval. The commission shall report annually on the success or accomplishment pursuant to the plan to the governor, legislature, state board of education and the general public.

(b) The commission shall develop and recommend to the legislature a system to provide grants to individual schools for innovation and improvement in education. The grant system to be developed shall include input from the state superintendent of education, the state board of education and any other persons or entities the commission desires. The grant system shall take into consideration and shall be coordinated with any private efforts establishing similar grant systems. The system to be developed for the awarding of grants shall take into consideration the financial ability of the local school system in which the school is located. The criteria developed by the commission for grant applications shall be submitted to the legislature annually. The legislature may appropriate funds to the commission for the purpose of making grants to individual public schools which meet the approved criteria. It is the intent of the legislature that grants shall be equitably distributed among schools of varying financial ability. Grant applications shall be sent to the state department of education and the Public Affairs Research Council of Alabama for review and recommendations. The commission shall receive the recommendations of the state department of education and the Public Affairs Research Council of Alabama and shall have the final decision on grant recipients that meet the criteria and guidelines approved by the legislature.

(c) The commission shall develop plans for improving parental involvement in the educational process of children. Such plans shall be submitted to the legislature not later than the first day of the 1993 regular session of the legislature."

Section 5. Section 16-8-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-8-1.

(a) The county board of education shall be composed of not fewer than five nor more than seven members, who shall be elected by the qualified electors of the county.

(b) Board members shall be persons of good moral character, with at least a high school education or G.E.D. equivalency, be of good standing in their respective communities, known for their honesty, business ability, public spirit and interest in the good of public education and, after election, successfully complete boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards or any other such organization which shall be approved by the State Superintendent of Education or by legislative act. Each county board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. No member of the county board of education shall be an employee of said board; provided, that in counties having populations of not less than 96,000 nor more than 106,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the board may serve as a board member and also as a teacher. Members shall not be required to hold teachers' certificates.

~~(b)~~ (c) County boards of education unless otherwise provided by law may use the provisions of this subsection to establish single member election districts with one board member elected from each district. ~~School boards exercising this option may establish five or seven such districts.~~ Such plan shall be considered only after two weeks public notice has been given, outlining generally the school districts under consideration. The members so elected must be residents of the district in which election is sought. Such residency shall have been established at least one year before the general election at which the candidate is to be elected. The boundaries of such single member districts shall be determined by a majority vote of the county board of education. The county board of education shall apportion the districts according to the last federal decennial census for the county utilizing the principle of equal representation. Thereafter, each county board of education choosing to implement single member election districts shall reapportion those districts within six months following the publication of the results of each federal decennial census."

Section 6. Section 16-8-2 of the Code of Alabama 1975, is amended to read as follows:

"Section 16-8-2.

At the general election of state and county officers, a member or members shall be elected for terms of ~~six~~ four years to succeed the member or members whose term or terms of office expire at that time. The members of the county board of education shall hold office until their successors have been elected and qualified. Before exercising any authority or performing any duties as a member of the county board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by article XVI of the state Constitution, the certificate whereof shall be filed in the office of the judge of probate of the county-; however the foregoing provision shall not be construed to modify any current or pending court order or court ordered settlement effective on or before December 31, 1992 which relates to the terms of office of county Board of Education members. It is further provided that current office holders shall complete the term for which they were elected and that the county commissions shall be responsible for providing for staggered terms for members of the county board of education. Notwithstanding any other provision in this act to the contrary, this act as applied to this section only, shall be effective on January 1, 1993. Those county board members who were elected for a term of six years shall be allowed to complete the term to which they were elected. The term of office of county board of education members may be set by local legislation to allow for staggered terms."

Section 7. Section 16-8-23, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-8-23.

(a) The county board of education shall appoint, upon the written recommendation of the county superintendent, all principals, teachers, clerical and professional assistants authorized by the board. The county board may suspend or dismiss for immorality, misconduct in office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of ~~chapter 24 of this title~~ sections 31 and 32 of this act.

(b) The superintendent shall have the right to suspend any employee whether tenured or nontenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension

should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing Board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The Board's decision shall be final, subject to such judicial review as may otherwise be provided by law.

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law."

Section 8. Section 16-9-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-9-1.

(a) There shall be a county superintendent of education in each county of this state who shall act as the chief ~~executive~~ administrative officer of the county board of education and who shall also be secretary of the county board of education. The county board of education of each county shall appoint a superintendent of schools for a term of from two to four years ~~from the first day of July next succeeding his appointment~~ which appointment may be terminated during said term for good cause.

(b) The county superintendent of education shall be a full-time employee devoted to public school business. The county superintendent of education shall receive such compensation and other allowances as the county board of education shall direct.

(c) No provision in this act shall be construed to repeal any local act of any county which provides for the popular election of the county superintendent of education."

Section 9. Section 16-9-12, Code of Alabama 1975, is hereby repealed.

Section 10. Section 16-9-2, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-9-2.

(a) The county superintendent of education shall be chosen for

his general fitness and character and shall be a person of recognized ability as a school administrator. No person shall be eligible for appointment by any county board of education or for any political party nomination, or for election to the office of county superintendent of education unless such person:

(1) Holds an Alabama certificate in administration and supervision based upon requirements established by the state board of education for such certificates;

(2) Has had not less than five years of experience in public school work at the time he assumes office;

(3) Submits proof to the state superintendent of education of three years of successful educational experience as a teacher, principal, supervisor, superintendent, educational administrator or instructor in school administration during the five years next preceding his appointment or election; and

(4) Submits proof to the county board of education that he holds a degree from a recognized four-year college or university; and that he is knowledgeable in school administration.

~~(5) If such person is to be appointed by the county board of education, submits proof to the county board that he is knowledgeable in school administration.~~

(b) A county superintendent of education, whether elected or appointed, need not be a ~~resident or~~ qualified elector of the county in which he is to serve. In every county where the county superintendent of education is elected by popular vote, he shall be nominated and elected in the same manner as other county officers are nominated and elected under the state election laws."

Section 11. Section 16-11-2, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-11-2.

(a) The general administration and supervision of the public schools and educational interest of each city shall be vested in a city board of education, to be composed of five members who shall be residents of such city, and who shall not be members of the city council or commission.

(b) The members of such city board of education, who shall,

except as hereinafter provided, serve without compensation, shall be chosen solely because of their character and fitness, possess either a high school education or G.E.D. equivalency, and, after appointment, successfully complete annual boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards or any other such organization which shall be approved by the State Superintendent of Education or by legislative act but. Each city board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. ~~no~~ No person shall be appointed or elected to this board under the provisions of this section who is in any way subject to the authority of the board; provided, that in cities having population of not less than 50,000 nor more than 60,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the board may serve as a board member and also as a classroom teacher.

(c) Each member of such city board in cities having a population of 300,000 or more according to the last or any subsequent federal census shall receive \$50.00 for each meeting of the board, whether special, regular or executive session, attended by him; provided, that no member shall receive more than ~~\$150.00~~ \$300.00 during any one month. This compensation shall be paid from the city school funds in the manner provided for paying out of such city school funds.

~~(d) Any city or town which has had the general administration and supervision of the public schools and educational interests of such city or town vested in a city board of education for a period of 20 years or more prior to August 15, 1991, may, if it elects, and except as may be provided by law, continue to have general administration and supervision of the public schools and educational interest under a local board of education regardless of any past or future federal census."~~

Section 12. Section 16-11-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-11-1.

(a) A "city" within the meaning of this title shall include all incorporated municipalities of ~~5,000~~ 15,000 or more inhabitants, according to the last or any succeeding federal census, or according to the last or any succeeding census taken under the provisions of sections 11-47-90 through 11-47-95.

(b) Nothing in subsection (a) hereof shall affect the existence of

any city board of education as established as of the effective date of this Act."

Section 13. Section 16-13-199, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-13-199.

(a) When a municipality under the jurisdiction of a county board of education attains a population of ~~5,000~~ 15,000 or more, according to the last decennial or any subsequent federal census, the ~~schools of the municipality may remain under the control of the county board by agreement between that board and the city council of the municipality, which agreement shall be expressed in resolutions adopted by and spread upon the minutes of the two authorities~~ governing body of the municipality may elect to establish an independent board of education by duly adopted municipal ordinance. If the governing body of the municipality ~~does not enter into such an agreement,~~ so elects, the control of the school or schools of the territory within the municipality shall be vested in a city board of education, and thereafter the district school tax collected in the city shall be paid over to the custodian of city school funds, and the district school tax collected in the contiguous territory shall be paid over to the custodian of county school funds; provided, that so much of the proceeds of the special school tax collected in the original school tax district as may be required for the retirement of outstanding warrants issued against such tax, including the interest thereon, shall be paid over to the proper official or authority to be used for such purpose.

(b) Nothing in subsection (a) hereof shall affect the existence of any city board of education established as of the effective date of this act."

Section 14. Section 16-11-3, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-11-3.

Annually at the regular meetings of the city council or commission in April the said council or commission shall elect a member or members of the board of education to succeed those whose term or terms of office expire that year. The terms of office of members of the city board of education shall be five years, and the term of one member shall expire annually. In the event of a vacancy in the membership of the city board of education by resignation or otherwise, the fact shall be reported to the city council or commission by the said board, and the said council

or commission shall elect a person to fill such a vacancy for the unexpired term. Before exercising any authority or performing any duties as a member of the city board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by article XVI of the state Constitution, the certificate whereof shall be filed in the office of the judge of probate of the county."

Section 15. Section 16-11-17, Code of Alabama 1975, is hereby repealed.

Section 16.

(a) The city board of education shall appoint, upon the written recommendation of the city superintendent, all principals, teachers, clerical and professional assistants authorized by the board. The city board may suspend or dismiss for immorality, misconduct of office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of sections 31 and 32 of this act.

(b) The superintendent shall have the right to suspend any employee whether tenured or non-tenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The board's decision shall be final, subject to such judicial review as may otherwise be provided by law.

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law.

Section 17. Section 16-12-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-12-1.

The city board of education shall appoint a city superintendent of schools for a term of from two to four years to hold office at the pleasure of the board which appointment may be terminated during said term for good cause. The city superintendent of schools shall receive such compensation and other allowances as the city board of education shall direct. ~~The city board of education may remove the city superintendent of schools for incompetency, immorality, misconduct in office, willful neglect of duty or when, in the opinion of the board, the best interests of the schools require it."~~

Section 18. (a) The city board of education of any Class 1 municipality shall consist of nine members who shall be elected from the nine single-member districts established for the election of members of the city governing body by a majority of the electors residing in each district.

(b) Each board member shall have been a resident of the district from which elected for at least one year at the time of election and shall continue to be a resident during the term of office.

(c) The method and dates for qualifying as a candidate for the city board of education and the conduct of elections shall be the same as for the election of the city council, including the provisions for second elections when no candidate obtains a majority of votes in the first election. The initial elections held under this section shall be set by the city council of the Class 1 municipality at the first city council election held after 90 days following final approval of this act by the United State Department of Justice.

(d) Members of the board of education shall take office immediately following certification of their election. Terms of office shall be for four years. Members may succeed themselves once, and after one term may seek office again.

(e) Vacancies occurring on the board shall be filled by appointment of a resident of the district from which the vacancy occurred by a majority of the remaining members of the board. At the next municipal election, the position shall be filled for the remainder of the term. If a member moves outside the district, the position shall be vacant and shall be filled as provided for vacancies. The changing of district lines by reason of redistricting to conform to the last Federal Decennial Census shall not be deemed to cause a vacancy during a term of office.

(f) The provisions of this section are supplemental and shall be

construed in pari materia with other laws applicable to city boards of education and any Class 1 city board of education; however, those laws or parts of laws in direct conflict or inconsistent are superseded to the extent that they may be constitutionally superseded by this section.

Section 19. Section 16-23-14, Code of Alabama 1975, is hereby amended to read as follows:

"Section 16-23-14.

For the purpose of setting up standards for the preparation of teachers, supervisors and administrative employees for service in the public schools, the state board of education shall, subject to other provisions of this chapter, authorize and prescribe minimum requirements on courses of study, organization, qualifications of instructors, buildings and equipment and sanitary conditions, and it shall be the duty of the state superintendent of education or his professional assistants to visit institutions engaged in teacher-training, hold conferences with the teachers and officials of such institutions, explain the requirements of the state board of education relating to the preparation of teachers, look into the character of work being done and perform such other services as may be deemed advisable for the improvement of the training provided for prospective teachers of the public schools of the state. Furthermore, the state board of education shall authorize and prescribe minimum standards whereby each institution engaged in teacher-training shall be required to provide remediation to its teacher-training graduates who demonstrate a need, as reflected by a performance-based evaluation, for remedial training or development in his or her first three years of employment as a teacher. The teacher-training institution shall provide this remediation at no cost to its teacher-training graduates."

Section 20. Repeal of Alabama Tenure Law.

Sections 16-24-1 through 16-24-38, Code of Alabama 1975, are hereby repealed.

Section 21. General Definitions.

(a) The term "teacher" is deemed to mean and include employees of county and city boards of education, the Alabama Institute for Deaf and Blind, Department of Youth Services School District, the Alabama School of Fine Arts and the Alabama School of Mathematics and Science who possess a certificate issued by the teacher certifying authority of the state of Alabama and who are employed in a position for which a

certificate is required by the Alabama state department of education or board of education. Personnel employed at two year educational institutions under the control and auspices of the state board of education who are employed in academic or technical education are for purposes of this act deemed to be teachers and covered under the provisions herein; however personnel employed at two year educational institutions and the Alabama School of Mathematics and Science shall not be required to obtain a teaching certificate in order to maintain either their teaching position or tenure under the provisions of this bill.

Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, supervisors, administrative assistants, presidents, or other chief administrative officers of employing boards shall not be deemed teachers within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

(b) "Employing board" shall be defined as a city or county board of education; the board of trustees of the Alabama Institute for Deaf and Blind; the board of education of the Alabama Department of Youth Services School District; the Chancellor of the Department of Post-secondary Education, for two year institutions under the control and auspices of the state board of education; the Board of Directors of the Alabama High School of Mathematics and Science; and the Board of Directors of the Alabama School of Fine Arts.

(c) "Superintendent" shall mean the chief administrative officer of the employing board and shall also include the president of two year colleges under the control and auspices of the state Board of Education, and other covered institutions.

(d) Persons employed in supervisory positions are deemed teachers for purposes of this act if they possess a certificate and occupy a position for which a certificate is required. Provided, however, supervisory personnel may attain tenure only as a teacher and may not attain tenure in his or her supervisory capacity.

Section 22. Support employee - Defined.

The term "support employee" is deemed to mean and include those persons employed full-time by a county or city board of education, two year educational institution under the control and auspices of the state board of education, the Alabama Institute for Deaf and Blind (not to include production workers at the Alabama Industries for the Blind), educational and correctional institution under the control and auspices of

the Alabama Department of Youth Services School District, the Alabama School of Mathematics and Science, the Alabama School of Fine Arts in a capacity other than "teacher," as that term is defined in Section 21 of this act, except for employees covered by the state merit system or other similar state statute; and provided further that a teacher who performs additional duties for which the teacher receives supplemental compensation shall not be deemed also to be a support employee as a result of performing those additional duties. Full-time employees are those employees whose duties require 20 or more hours in each normal working week or adults who are employed as bus drivers. Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, supervisors, administrative assistants, presidents, or other chief administrative officers of employing boards shall not be deemed support employees within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

Section 23. Criteria for determining teacher tenure.

(a) Any teacher who shall meet the following requirements shall attain tenure:

(1) Such teacher shall have served under contract with the same employing board for three consecutive, full school years and be renewed for employment for the next succeeding school year by such employing board. Any non-tenured teacher shall be deemed offered reemployment for the succeeding school year at the same salary unless the employing board shall cause notice in writing to be given said teacher on or before the last day of the school year in which the teacher is employed; and such teacher shall be presumed to have accepted such employment unless he shall notify the employing board in writing to the contrary on or before the fifteenth day of June. The employing board shall not cancel the contract of any tenured teacher, nor cause notice of nonemployment to be given to any tenured or nontenured teacher except by a vote of a majority of its members evidenced by the minute entries of said board made prior to or at the time of any such action.

(2) An instructor who has attained tenure and who is promoted to supervisor shall retain tenure as an instructor; and should the promoted instructor not be retained as supervisor, the supervisor's salary would be reduced to the salary paid instructors in accordance with the prevailing salary schedule of the employing board. Nonrenewal of the contract of a supervisor and reassignment to an instructor position shall not be deemed a contract cancellation or transfer for purposes of this act.

(3) The first year of employment shall count as a full year for

purposes of attainment of tenure only if the teacher is employed by the employing board on or before the tenth working day of the second semester and remains employed through the end of the school year.

(4) No partial teaching service during a school year, as school year is defined by the employing board of education, shall count toward the attainment of tenure, except as otherwise provided.

(5) As of the effective date of this act, any person who has attained tenure with an employing board shall retain such tenure.

(6) When two or more school systems are consolidated under one employing board, or when one or more schools are separated from a school system in order to become a part of or to constitute another school system, the tenure status of the employees involved in such changes is in no way jeopardized.

Section 24. Criteria for determining support tenure.

(a) A support employee who shall meet the following requirements shall attain tenure:

(1) An employee shall have been employed as a support employee by the same employing board for a period of three (3) consecutive contract periods of at least nine (9) months each.

(2) During the probationary period specified above, the employing board may terminate a support employee by furnishing said employee written notification thereof at least fifteen (15) days prior to the effective date of termination.

(3) During the probationary period specified above, the superintendent shall evaluate annually the support employee.

(4) As of the effective date of this act, any nontenured employee who has attained tenure as a support employee with an employing board under the prior laws shall retain tenure as a support employee in said system.

Section 25. Criteria for determining tenure of a principal.

(a) The term "principal" is deemed to mean and include only those persons certified by the state board of education who are employed by an employing board of education as the chief administrator of a school, including a vocational center.

(b) A principal shall attain tenure only in accordance with the provisions of this chapter.

(c) As of the effective date of this act, a principal who has attained tenure as a principal with an employing board under the prior tenure law shall retain tenure as a principal in said system. A tenured principal who has attained tenure previously with an employing board as an instructor or supervisor shall retain tenure as an instructor or supervisor in said system.

(d) As of the effective date of this act, no principal employed by an employing board of education shall attain tenure, except as otherwise provided herein.

(e) A tenured principal may elect nontenured employment with an employing board of education as follows:

(1) A tenured principal shall elect to be employed as a tenured or nontenured principal. The election shall be irrevocable.

(2) No later than two (2) years from the effective date of this act, all currently employed principals shall elect to be employed either as a tenured or nontenured principal. The election is irrevocable, except as otherwise provided by this act.

(3) Employees hired as nontenured first time principals shall be employed for a three (3) year period under a performance-based contract, provided however that an employee who has never been employed as a principal may, upon the mutual agreement of that employee and the employing board, be employed as a nontenured principal under a performance-based contract for a three (3) year period which contains a one (1) year probationary period. In such instances the remaining two (2) years of the contract shall be contingent upon the receipt of a satisfactory first year evaluation. The performance-based contract shall be developed by the employing board of education, but shall utilize any criteria for the evaluation of a principal developed by the state board of education. A currently tenured principal who elects nontenured employment shall receive a \$5,000.00 annual salary increase, funded annually through the Special Educational Trust Fund and received by the principal as salary, based upon the salary schedule and methodology utilized by the employing board. For each contract year thereafter, the principal shall be entitled to a base salary which is \$5,000.00 more than the salary to which he would otherwise be entitled. The above salary increase shall be in addition to any pay raise granted by either the legislature or the local board of education. Said salary

increase shall be considered for purposes of calculating teacher retirement and other benefits which are or may be provided by either the legislature or local board of education. Any currently tenured principal electing nontenured employment shall retain as a part of his salary the \$5,000.00 salary increase regardless of the principal's subsequent employment with another employing board.

(4) A superintendent may transfer or reassign any nontenured principal at any time, and the transfer shall be effective immediately. A nontenured principal may be dismissed at any time during the term of the principal's contract by being provided due process of law, which process may be provided through a hearing before the employing board.

(f) All current tenured principals not electing to be employed as nontenured principals shall be deemed to have elected to remain as tenured principals. A tenured principal shall have the opportunity to elect to be employed as a nontenured principal as provided in this act.

(g) For three (3) years after the effective date of this act, an employing board, for periods of time not to exceed ninety (90) days, may allow a tenured principal to elect to change his employment to that of a nontenured principal. The election is irrevocable. Within the three (3) year period above, the employing board may allow for multiple opportunities for a tenured principal to change his employment to that of a nontenured principal.

(h) As of the effective date of this chapter, an employing board shall not reduce the salary schedule of a principal below the 1992-93 salary schedule level.

(i) A decision not to continue the employment of a nontenured principal beyond the expiration date of the principal's current contract must be made and the principal so notified in writing at least 180 calendar days prior to the expiration of the current contract; provided, however, that a decision not to continue the employment of a nontenured principal who is serving under a contract which contains a one year probationary period may be made and notice to that effect given in writing at any time prior to the end of the probationary period. A decision not to continue the employment of a nontenured principal shall be made by majority vote of the employing board upon the written recommendation of the superintendent. Such a decision will terminate the employment relationship between the employing board and the principal at the end of the current contract period or, where applicable, at the end of the probationary period; provided, however, that a principal who held a tenured position other than principal in the school system prior to

becoming a principal shall retain that previously earned tenured status in that school system.

(j) If the employing board does not give notice of a decision not to continue the nontenured principal's employment beyond the expiration date of the principal's current contract as required by subsection (i), the principal's contract shall be deemed extended for a period of one year beyond the current contract term; provided, however, that the employment relationship between the employing board and the principal may thereafter be terminated effective at the expiration of the extended contract in accordance with the provisions of subsection (i).

Section 26. Duties of Principal.

(a) A principal shall supervise the daily operation and management of personnel, finances, facilities, and other matters of the school or campus for which he is responsible. A principal shall assume the administrative responsibility and instructional leadership, as directed by the superintendent, consistent with the employing board policy, for the planning, management, operation, and evaluation of the education program of the school or campus under the principal's responsibility.

(b) A principal shall make a written recommendation to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school or campus under his responsibility. If a recommendation of a principal is rejected, then the principal shall submit a second recommendation. The superintendent shall have final authority for personnel assignments within the school system.

(c) A principal shall observe all rules, policies, and procedures relative to the operation of the public schools as established by applicable laws and rules and standards of both the state board of education and the employing school board.

(d) A principal shall perform all other duties assigned by the superintendent, consistent with the employing board's policy.

Section 27. Contract of employment effective until superseded or canceled.

The contract of employment of any tenured employee shall remain in full force and effect unless superseded by a new contract signed by both parties, or canceled as provided in Section 30.

Section 28. Change of compensation for succeeding year.

The salary or compensation of any tenured employee may be changed for any succeeding year to accord with a general salary schedule adopted by the employing board of education; provided, that no salary schedule shall operate to compensate teachers in less sums than the sums contained in a minimum salary schedule, which may be adopted by the state board of education of Alabama for teachers in the public schools of the state.

Section 29. Transfer of tenured and nontenured employees.

(a) A superintendent may transfer or reassign any nontenured teacher or nontenured support employee at any time, and the transfer shall be effective immediately.

(b) A superintendent may transfer any tenured teacher from one position, school or grade to another by giving written notice of such transfer, and the reasons therefor, at any time not later than thirty (30) calendar days prior to the commencement of the school year for which the transfer is to be effective. For purposes of this subsection, the school year shall commence on the first day of attendance by students. The transfer shall be effective at the commencement of the school year. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 31. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the teacher proves that the transfer was arbitrary or capricious or based upon personal or political reasons on behalf of the superintendent or employing board. No such transfer shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(c) In addition to the transfer procedure specified in subsection (b), above, a superintendent may transfer any tenured teacher from one position, school or grade to another by giving written notice of such transfer, and the reasons therefor, at any time not later than ten (10) working days after the commencement of the school year for which the transfer is to be effective. The 10 day period shall begin on the first day of attendance by students. The superintendent shall, before initiating any transfer under this subsection, publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred teacher. The publication shall be made for a period of not fewer than five (5) working days. If school is in session, such publication shall be made at all relevant schools and other relevant school work

sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to reduce the number of teacher units in a school or school work site because of student enrollment, the notice need be posted only at the school or school work site from which a teacher is to be transferred. If school is not in session, the publication shall be made by notice posted at the office of the superintendent. Any teacher may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured teacher involuntarily. Where the reason for the transfer is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall not transfer a tenured teacher if there is employed in the same school a nontenured teacher whose transfer would reasonably accomplish the superintendent's purpose. Upon expiration of the five (5) day publication period, but in no event later than the tenth working day as herein provided, the superintendent may effect the transfer of a tenured teacher by giving the required notice. The transfer shall be effective at the commencement of the school year or, if the notice is given after commencement of the school year, upon receipt by the teacher of the notice. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 31 of this act. In proceedings contesting a transfer under this subsection, the superintendent shall bear the burden of proving that there was a sound educational or programmatic reason for the transfer. If the reason for the transfer under this subsection is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the circumstances necessitating the transfer were not known to the superintendent in time to initiate the transfer at least 30 days before the commencement of school. If the transfer under this subsection is for a reason other than to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the superintendent could not reasonably have known or anticipated the circumstances necessitating the transfer in time to initiate the transfer at least 30 days before the commencement of school. No transfer under this subsection shall result in loss of tenure or violation of contract and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(d) Any tenured teacher transferred under subsection (c) shall be entitled, for a period of two years commencing with the effective date of

the transfer, to return to the school from which the teacher was transferred if a vacancy occurs in the field in which the teacher was teaching at the time of the transfer, and the employing board intends to fill such vacancy. If the employing board intends to fill such vacancy, the superintendent shall notify the transferred teacher of the vacancy and, if otherwise qualified at the time for the position, the teacher shall be entitled to return to such position.

(e) A superintendent may transfer a tenured support employee at any time from one job classification, school or work site to another by giving written notice of such transfer, and the reasons therefor. For purposes of this subsection, "transfer" does not include a reassignment which would cause the employee to work at a facility or site which is located on the same campus or contiguous parcel of real estate as the school or worksite at which the employee was previously working. The support employee's "school or work site" shall include all facilities or grounds of the employing board at which the employee works or may reasonably be expected to work as part of the employee's regular job responsibilities. Before initiating an involuntary transfer of a tenured support employee, the superintendent shall publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred employee. The publication shall be made for a period of not fewer than five (5) working days. Such publication shall be made at all relevant work sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to decrease the number of support employees at a school or work site, the notice need be posted only at the school or work site from which a support employee is to be transferred. Any support employee may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured support employee involuntarily. Upon expiration of the five (5) day publication period the superintendent may effect the transfer of a tenured support employee by giving the required notice. The transfer of a tenured support employee shall take effect immediately upon notification by the superintendent, except that the support employee may request for hardship reasons to delay the transfer for not more than five (5) working days, which request shall not unreasonably be denied. A tenured support employee affected by such a transfer may request a hearing before a hearing officer as provided in Section 31 of this act. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the support employee proves that the transfer was arbitrary or capricious or based upon personal or political reasons on behalf of the superintendent or employing board. If the superintendent declined to accept any volunteer for the transfer and the support employ-

ee contests the transfer on that basis, the support employee shall bear the burden of proving that the superintendent's decision was not reasonable under the circumstances. No transfer under this subsection shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations. Nothing herein shall prohibit the superintendent from making a temporary transfer of a tenured support employee, for a period not to exceed ten (10) working days, when the superintendent determines that exigent circumstances require such action.

(f) If a tenured teacher or tenured support employee successfully contests a transfer, such employee shall be entitled to resume his former position at the following times: (1) at the time of the employing board's final decision disallowing the transfer, or (2) at the time of a decision of the Alabama Court of Civil Appeals reversing the action of the employing board if the employing board rejected the recommendation of the hearing officer and permitted the transfer to remain in effect.

Section 30. Cancellation of contract - grounds.

Cancellation of an employment contract of a tenured employee may be made for failure to perform duties in a satisfactory manner, incompetency, insubordination, neglect of duty, immorality, justifiable decrease in the number of positions, or other good and just cause. Cancellation shall not occur for political or personal reasons. No cancellation shall be initiated against any tenured employee after the expiration of three years from the date such cause became known to the employing board. Provided, however, that evidence of events and circumstances predating the three (3) year period may be considered if determined by the hearing officer to be relevant.

Section 31. Hearing Procedure.

(a) The following hearing procedure shall be followed for all transfers or cancellations of contracts of tenured employees. No action shall lie for the recovery of damages for the breach of any employment contract of an employee of an employing board.

(b) The superintendent shall initiate all transfers and cancellations of contracts of tenured employees by giving written notice of the proposed personnel action. The notice shall contain:

(1) a statement of the proposed personnel action and the statutory authority for such action.

(2) a statement of the right to request a hearing and a brief outline of the hearing process and rights of the employee; and

(3) a detailed statement of the reasons for the proposed action.

(c) Service of Notice. The notice may be served in either of the following ways:

(1) personal service, with a copy mailed to the last known address of the employee, or

(2) certified mail, return receipt requested mailed to the last known address of the employee.

(d) Request for Hearing. An employee may request a hearing to contest a proposed action. The request shall be in writing; filed with the superintendent; and received by the superintendent within seven (7) calendar days of the date of receipt of notice of the proposed action. Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the proposed personnel action to become final and effective immediately upon approval by the employing board.

(e) Selection of hearing officer.

(1) If a hearing is requested timely, a hearing officer shall be appointed from a roster of hearing officers provided by the American Arbitration Association in accordance with their expedited procedures. All hearing officers shall meet the following requirements:

(i) be experienced and knowledgeable in education and personnel matters or attend training administered jointly by the Alabama Education Association and the Alabama Association of School Boards; and

(ii) shall be a resident of a member state of the Southern Regional Education Board.

(2) It shall be the duty of the superintendent to notify the American Arbitration Association that a hearing has been requested and to whom the rosters should be mailed. Within seven (7) calendar days of receipt of a request for a hearing, the names of seven (7) potential hearing officers shall be furnished by the American Arbitration Associa-

tion to the parties and any attorney who has filed an appearance on the part of a party. If a party has had an attorney file an appearance on their behalf, service of the list of potential hearing officers on that attorney shall be deemed as service on the party. Each party shall within seven (7) calendar days strike no more than two (2) names from the list and notify the American Arbitration Association of the strike(s). The strikes shall be made independently by the parties without reference to any strikes that the other party may choose to make. At the conclusion of the seven (7) calendar day striking period, the American Arbitration Association shall designate a hearing officer from the names that were not eliminated by strikes of the parties.

(f) Conduct of hearing, authority of hearing officer.

(1) The hearing shall commence within fourteen (14) calendar days of selection of the hearing officer. The hearing officer shall establish a time and place for the hearing, which shall be held in a suitable site provided by the employing board.

(2) In the conduct of a hearing, the hearing officer shall have authority to:

(i) maintain order;

(ii) cause a record of the proceedings to be made;

(iii) establish reasonable time limits for the conduct of the proceedings;

(iv) rule on the admissibility of evidence, including the number of witnesses to testify for either party;

(v) issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence. Upon request, the hearing officer shall issue subpoenas for witnesses to testify either in support of the charges or on behalf of the employee, and such witnesses shall be entitled to receive the same mileage and per diem as witnesses called in civil cases in the circuit court of the county where the hearing is held, the same to be paid out of school funds; provided, that the local board shall not be accountable for the witness fees of more than ten (10) of the witnesses subpoenaed by the employee. In case a person refuses to obey such subpoena, the hearing officer may invoke the aid of the circuit court in order that the testimony or evidence be produced; and, upon proper showing, such court shall issue a subpoena or order requiring such person to appear before the hearing officer and produce evidence

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and give testimony relating to the matter at issue; a person failing to obey the court's subpoena or order shall be punishable by the court as for contempt;

(vi) if necessary, hold a prehearing conference, to be conducted by telephone if appropriate, or issue an order to clarify the matter(s) in dispute; establish the order of presentation; allow and establish time limits for the exchange of exhibits and names of witnesses; and

(vii) enter an order on any other matter which would facilitate the conduct of the hearing, including the suspension, for good cause shown, of any time period established herein.

(3) At the option of the employee, the hearing may be closed to the public; provided that any board member may attend all or part of a hearing. Attendance in the hearing as an observer disqualifies the board member as a witness at the hearing.

(4) Record of Proceedings.

(i) It shall be the responsibility of the superintendent to maintain the record of the hearing which shall include:

1. the notice of proposed action;
2. the request for a hearing;
3. all evidence admitted during the hearing;
4. a transcript of the proceedings;
5. a statement of all matters officially noticed;
6. all questions and offers of proof, objections and rulings thereon;
7. the written recommendation of the hearing officer; and
8. the final decision of the employing board.

(ii) The proceedings shall be recorded by a qualified court reporter. The cost of transcription shall be paid by the employing board. The parties shall ensure that the transcript is completed no later than twenty-one (21) calendar days after conclusion of the hearing.

(5) Costs and expenses.

(i) The parties shall bear their own costs and expenses. The parties shall bear equally all costs attributable to the hearing officer.

(6) Expedited Proceedings.

(i) In order to expedite the hearing process contemplated by this act, all communications except the initial notice to the employee of the proposed personnel action may be by facsimile transmission or other means of expedited delivery.

(7) Settlement.

(i) Informal dispositions may be made of any matter by stipulation, agreed settlement, consent order, or by another method agreed upon by the parties in writing. An informal disposition shall be final and binding upon the parties.

(ii) At any time after submission of a request for a hearing, an employee may, in writing, withdraw his request for a hearing. Upon withdrawal, the proposed personnel action shall become final immediately upon approval by the employing board.

(8) Report of Hearing Officer; Employing Board Action.

(i) Within seven (7) calendar days of conclusion of the hearing, the hearing officer shall submit a written report to the employee and the employing board. The report shall include a brief statement of the nature and course of the proceedings, a statement of the reason(s) for the proposed personnel action, findings of fact, and a recommended decision on the proposed personnel action. If the employee contends that procedural errors have occurred in the proceedings which have substantially prejudiced his rights, the hearing officer's report shall include appropriate findings of fact relating to that contention, and a recommended disposition.

(ii) Within 14 calendar days of receipt of the record of proceedings compiled to that point, the employing board shall render its final decision. The employing board shall not be bound by the proposed decision submitted by the hearing officer; however, the findings of fact of the hearing officer shall be accorded a presumption of correctness. The final decision of the board shall be in writing. If the board determines that facts found by the hearing officer are against the great weight of the evidence and clearly erroneous, the board may reject those findings, in which case it shall state in writing its own findings of fact.

If the employing board does not accept the hearing officer's recommendation on the proposed personnel action, the employing board shall render its independent decision in writing. If the board chooses to accept the recommendation of the hearing officer, it shall so state in writing. Nothing herein shall preclude the employing board from ordering a disposition other than that recommended by the superintendent.

(iii) The final decision of the employing board shall be served upon the employee in the same manner as service of a notice of a proposed personnel action. Except as otherwise provided in this act, the employing board's decision shall be final as of the day of its adoption.

(iv) In contract cancellation proceedings, the employee shall be removed from the payroll and the employee's salary cease at the time of the employing board's final decision cancelling the employee's contract. If the employing board accepts the recommendation of the hearing officer, but is later reversed, the employee shall be entitled to reinstatement and back pay. If the employing board rejects the recommendation of the hearing officer, and is later reversed, the employee shall be entitled to reinstatement, back pay, and interest at 9% per annum thereon.

Section 32. Appeal of Final Decision of Employing Board.

(a) A tenured employee may appeal the final decision of an employing board only to the Alabama Court of Civil Appeals. The appeal shall be filed within fourteen (14) calendar days of the employing board's final decision. The appeal will be perfected by filing a written notice of appeal with the superintendent, who shall transmit the notice and the record of proceedings to the Clerk of the Alabama Court of Civil Appeals within fourteen (14) calendar days of receipt of the notice of appeal. Failure by the employee to file a timely notice of appeal shall result in the employing board's decision becoming final; and failure by the superintendent to transmit timely the notice and record of proceedings shall result in a decision in favor of the employee.

(b) On appeal, the findings of fact of the hearing officer shall be entitled to a presumption of correctness. If the employing board has rejected some or all of the hearing officer's proposed findings, and has substituted its own findings, the findings by the employing board are not entitled to a presumption of correctness; but the appellate court shall consider the employing board's findings in determining whether the findings of fact of the hearing officer are clearly erroneous. The employing board's decision on the proposed personnel action will be

affirmed unless the decision (1) does not have substantial support in the facts as determined by the hearing officer, or, if the hearing officer's findings are determined to be clearly erroneous, in the facts established in the record as a whole; or (2) is in violation of constitutional or statutory provisions; or (3) is in excess of the statutory authority of the employing board; or (4) is in violation of any pertinent, duly adopted policy of the employing board which violation worked to the substantial prejudice of the employee; or (5) is made upon irregular or unlawful procedure which worked to the substantial prejudice of the employee; or (6) is unreasonable, arbitrary or capricious or characterized by an abuse of discretion; or (7) would result in a disposition of the personnel matter which would be plainly unjust.

Section 33. Cancellation of Contract by Employee.

No employee, whether or not tenured, shall be permitted to cancel his contract during the school year for which said contract is in effect, nor for a period of 45 days prior to the beginning of such school year, unless such cancellation is mutually agreed upon; or unless such employee has been notified of a transfer fewer than 30 days prior to the first day of attendance by students. Any teacher cancelling his or her contract in any other manner than in this section provided shall be deemed guilty of unprofessional conduct, and the state superintendent of education is hereby authorized to revoke or suspend the certificate of said teacher.

Section 34. Effect of Leave of Absence on Tenure.

(a) Leave of absence for a period of one year for good cause may be granted to a tenured employee by the employing board of education without the impairment of the tenure status of an employee; provided, that for valid reasons the board may extend the leave of absence for one additional year; and provided further, that upon the request of an employee who has heretofore or who shall hereafter enter the military service of the United States at a time when there is an existing state of war between the United States of America and any other country, leave of absence shall be granted to such employee for the duration of the war and until the beginning of the school year next succeeding the date on which said employee is released from said military service; and, on or before such date, said employee must give written notice to the employing board of education whether or not he desires to be reemployed by said board. If such notice is not received by the employing board of education, or if the employee notifies the employing board on or before the date specified above that he does not desire reemployment, the employing board has no further responsibility with

respect to reemployment of said employee. The term "military service of the United States," as used herein, shall include the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps, the Coast Guard, the Army Specialist Corps, the Women's Army Auxiliary Corps and the Women's Volunteer Reserve of the United States Navy, those persons commissioned in the public health service or those persons entering into the service of any similar organization heretofore or hereafter formed by the government of the United States.

(b) A nontenured employee entering the military service of the United States who has accumulated one or more school years of experience with an employing board of education immediately prior to entering military service, shall be given credit for such experience with the employing board of education in attaining tenure, if such employee is reemployed by said board of education within one year after the release of that employee from military service.

Section 35. Repeal of Fair Dismissal Act.

Sections 36-26-100 through 36-26-108 Code of Alabama 1975, are hereby repealed.

Section 36. Abolition of Boards of School Trustees.

(a) Section 16-10-1 through 16-10-11, Code of Alabama 1975 are hereby repealed.

(b) Any board of school trustees currently in existence is hereby abolished. All books, records, and funds maintained or held by any board of school trustees currently in existence shall be delivered without delay to the principal of the school.

Section 37. All cases involving tenure or continuing service status under Title 16, Chapter 24, Code of Alabama 1975, as amended (teacher tenure law) and Title 36, Chapter 26, Code of Alabama 1975 (Fair Dismissal Act), in which notice of proposed cancellation of contract or transfer was served on the affected employee prior to the effective date of this act shall proceed under the laws, procedures and rules in said statutes as if said statutes remained in effect. By written agreement, which shall be included in the record of proceedings, the tenured employee and the superintendent may elect after the effective date of this Act to proceed instead under the provisions of this Act.

Section 38. It shall be the responsibility of the local superintendent to post vacancy notices for each personnel position to be filled.

Said notice shall be posted in a prominent location at least ten calendar days prior to the date such position is to be filled. The vacancy notice shall include job title, qualifications, job description, salary schedule, address for submission of application, deadline date, and any other information deemed applicable to such notice. Should an emergency occur which causes a critical personnel position to become vacant, the superintendent may fill the position temporarily until the provisions of this section have been met.

Section 39. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 40. All laws or parts of laws that conflict with this act are hereby repealed.

Section 41. This act shall be effective for all fiscal years or periods beginning after September 30, 1992 if the constitutional amendment proposed by House Bill 252 of the 1992 regular session has been ratified by the people and proclaimed by the Governor as required by law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 221, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 29, Line 31, as follows:

By striking the words "one year" and inserting in lieu thereof the words "three years".

The Standing Committee on Finance and Taxation then reported the following amendment No. 2 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 2 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 29, Line 25, by adding the following language:

"A principal who has not previously held a tenured position in that school system may gain tenure as a teacher in that school system provided he or she has served under contract as a principal with that same em-

playing board for more than three consecutive full school years, provided however, he or she has not been dismissed for cause after due process hearing by the local employing board".

The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 3 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, as follows:

By striking Section 38 (lines 32-34 on Page 45 and lines 1-9 on page 46).

Further amend House Bill 221 as substituted on page 46, line 10, by renumbering and renaming Section 39 to Section 38.

Further amend House Bill 221 as substituted on page 46, line 14, by renumbering and renaming Section 40 to Section 39.

Further amend House Bill 221 as substituted on page 46, line 16, by renumbering and renaming Section 41 to Section 40.

The Standing Committee on Finance and Taxation then reported the following amendment No. 4 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 4 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 22, Lines 25 and 26, as follows:

By deleting the following phrase: "and the Alabama School of Mathematics and Science".

Further amend House Bill 221 as substituted on page 23, lines 2 and 3 by deleting the following phrase: "and the Alabama School of Mathematics and Science".

Further amend House Bill 221 as substituted on page 23, lines 19 and 20 by deleting the following phrase: "the Board of Directors of the Alabama High School of Mathematics and Science;".

Further amend House Bill 221 as substituted on page 24, line 9

by deleting the following phrase: "the Alabama School of Mathematics and Science,".

The Standing Committee on Finance and Taxation then reported the following amendment No. 5 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 5 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221 on Page 23, Line 2, after the word "institutions", by inserting the following: ", and the Alabama School of Fine Arts".

The Standing Committee on Finance and Taxation then reported the following amendment No. 6 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 6 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 17, Line 24 after the period "." by adding the following language: "Nothing in subsection (a) hereof shall affect the existence of any city that has established a city board of education or has created a city system as of March 1, 1992, even if that city board does not yet have a city superintendent of education."

Further amend the substitute for House Bill 221, on page 18, line 19 after the period "." by adding the following language: "Nothing in subsection (a) hereof shall affect the existence of any city that has established a city board of education or has created a city system as of March 1, 1992, even if that city board does not yet have a city superintendent of education."

The Standing Committee on Finance and Taxation then reported the following amendment No. 7 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 7 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 16, Line 2, as follows:

After the word "laws." insert the following language: "In every school district where there exist an elected superintendent of education, it shall be the responsibility of the superintendent to notify his or her re-

spective board of education of his or her intent to seek re-election to the position of superintendent of education no later than 180 days prior to the first day of qualifying in the primary election in which said superintendent would seek re-election. In the event that an elected superintendent fails to notify the board of education in the prescribed time, or chooses not to seek re-election to the position they now occupy, then the board of education shall declare the position of superintendent vacant at the end of the current term of the elected superintendent of education and shall appoint now and at all times in the future the superintendent of education.

If after notification by an elected superintendent to the board of education of the superintendent's intention to seek re-election, the superintendent withdraws from the campaign prior to the election, the election of a superintendent shall be cancelled and the board shall appoint a superintendent.

If an elected superintendent resigns from office, the board of education shall declare the position of superintendent vacant and shall appoint the superintendent at all times in the future.

As of January 1, 2000, no further elections of the position of superintendent of education shall be held, provided, however, that those elected superintendents holding office on January 1, 2000 shall be allowed to serve out the current term of office effective on that date".

The Standing Committee on Finance and Taxation then reported the following amendment No. 8 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 8 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, as follows:

1. The "General Definitions" section, amended to be Section 21 beginning on page 22 and continuing onto pages 23 and 24 is amended as follows: a. On page 22, line 31, insert after the word "employed" and before the word "at" the following: "on a full-time basis, as defined by the rules and regulations of the state board of education". b. On page 22, line 33, insert after the word "educational" and before the word "are" the following: ", including instructors, counselors, librarians, business managers, deans, assistant deans, and associate deans,". c. On page 23, at line 8, insert the following language after the comma following the word "presidents" and before the word "or": "vice presidents, provosts,". d. Paragraph (b) on page 23, beginning at

line 13, is superseded by the following: "(b) Employing board shall be defined as a city or county board of education; the board of trustees of the Alabama Institute for Deaf and Blind; the board of education of the Alabama Department of Youth Services School District; and the Board of Directors of the Alabama School of Fine Arts. With regard to two-year educational institutions under the control and auspices of the state board of education, the term employing board when used in the context of the employing entity shall be defined as the respective educational institution, and when used in the context of the entity which is responsible for the final decision in a personnel action or proposed personnel action subject to the hearing procedure described in this act shall be the Chancellor of the Alabama Department of Postsecondary Education. The state board of education shall adopt such rules, regulations, and policies as may be necessary and appropriate to define the respective authority, duties, and responsibilities of the state two-year educational institution and the Chancellor regarding their respective roles as the employing board."

2. The section entitled "Support employee - Defined," amended to be Section 22 is amended as follows: On page 24, line 22, insert after the comma following the word "presidents" and before the word "or": "vice presidents, provosts,".

3. The section entitled "Criteria for determining teacher tenure", amended to be Section 23, is amended as follows: a. On page 25, at line 26, insert after the word "semester" and before the word "and" the following: "or quarter, whichever is applicable,". b. On page 26, at line 1, insert after the word "systems" and before the word "are" the words "or colleges". c. On page 26, beginning at line 12, strike all words after "for" and in their place substitute the following: "at least nine months in each of three (3) consecutive school years". d. On page 26, at line 18, insert after the number "(15)" and before the word "days" the word "calendar".

The Standing Committee on Finance and Taxation then reported the following amendment No. 9 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 9 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 2, Line 4, as follows:

after the word "annual" by inserting the words: "state funded".

Further amend the substitute for House Bill 221, on page 2, line

25, after the word "annual" by inserting the words: "state funded".

Further amend the substitute for House Bill 221, on page 2, Line 27, after the word "Boards", by deleting the remainder of Line 27 and Lines 28 and 29 in their entirety.

Further amend the substitute for House Bill 221, on page 11, section 5, subsection (b), on line 14, following the word "complete", by inserting the words: "state funded".

Further amend the substitute for House Bill 221, on page 11, section 5, subsection (b), on line 16, after the word "Boards", by deleting the following words: "or any other such organization which shall be approved by the State Superintendent of Education or by legislative act".

Further amend the substitute for House Bill 221, on page 16, Section 11, subsection (b), on line 16, after the word "annual", by inserting the words: "state funded".

Further amend the substitute for House Bill 221, on page 16, section 11, subsection (b), on line 18, after the word "Boards", by deleting the following words: "or any other such organization which shall be approved by the State Superintendent of Education or by legislative act".

The Standing Committee on Finance and Taxation then reported the following amendment No. 10 to the substitute for the Bill, HB 221, to-wit:

AMENDMENT NO. 10 TO SUBSTITUTE FOR HB 221

Amend the substitute for House Bill 221, on Page 12, Line 20, by striking through the number "four" and inserting in lieu thereof the number "six".

On motion of Senator Bennett, said substitute and amendments were laid on the table.

Yeas 21 Nays 11

Yeas:

Senators:

Barron, Bennett, Bolling, Campbell, Corbett, Denton, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Mitchell, Mitchem,

Owens, Parsons, Preuitt, Smith (J), Waggoner, and Wilson

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Nays:

Senators:

Amari, Bailey, Bedsole, deGraffenried, Dial, Dixon, Ellis, Floyd, Horn, Little, and Windom

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MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Senate amendment to the following House Bill:

H. 287. Relating to employment security programs of the Department of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992 and ending March 31, 1997; to provide for the collection, appropriation, and disbursement of such assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment; to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; to clarify the procedure for determining shared costs; and to provide for retroactive effect.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 90. URGING THE ALABAMA DEVELOPMENT DIS-

ABILITIES PLANNING COUNCIL AND THE DEPARTMENT OF MENTAL HEALTH AND RETARDATION, IN COOPERATION WITH OTHER INDIVIDUALS AND GROUPS, TO DEVELOP A COMPREHENSIVE FAMILY AND SUPPORT PLAN FOR DISABLED PERSONS AND NEEDED LEGISLATION.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Morrow:

H. 588. To provide further for the tax liability for the sales and use of motor fuels and to amend Section 40-17-11, Code of Alabama 1975.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 588 - to the Committee on Energy and Natural Resources

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 91. MOURNING THE DEATH OF FRED BEN REED OF SPANISH FORT, BALDWIN COUNTY, ALABAMA.

Also:

SJR 92. DESIGNATING THE WEEK OF APRIL 26 - MAY 2,

1992, AND THE LAST WEEK IN APRIL ANNUALLY THEREAFTER, AS "BIG BROTHERS/BIG SISTERS OF ALABAMA APPRECIATION WEEK."

Also:

SJR 93. MOURNING THE DEATH OF MAXWELL NEAL BROWN OF ENTERPRISE, ALABAMA.

Also:

SJR 94. NAMING THE "HOBART L. LOVE CHAPEL" AT JULIA TUTWILER PRISON.

GREG PAPPAS,
Clerk.

FURTHER CONSIDERATION OF HB 221

The Senate proceeded to further consideration of the Bill, HB 221.

Senator Bennett offered the following substitute for the Bill, HB 221, to-wit:

SUBSTITUTE FOR HB 221

A BILL TO BE ENTITLED AN ACT

To give the Act a title; to amend Section 16-6-1, Code of Alabama, 1975, to require the appointment of 15 members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission, to change the length of terms for members of the Alabama Education Study Commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama, 1975, to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama, 1975, relating to the duties and responsibilities of the Standards on

Excellence Commission, to require the creation of an Education Master Plan to be approved by the State Board of Education, and to provide for the appointment of a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement of education, to provide for the appointment of this committee by the Alabama Education Study Commission and to provide that the commission shall develop plans for improving parental involvement in the educational process of children; to amend Section 16-8-1, Code of Alabama, 1975, regarding the qualifications for membership on a county board of education to provide that a member of a county board of education have a high school education or a G.E.D. equivalency and after election successfully complete annual boardmanship training and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-23, Code of Alabama, 1975, to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama, 1975; to repeal Section 16-9-12, of Alabama, 1975, relating to county superintendents of education; to amend Section 16-11-2, Code of Alabama, 1975, regarding the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete annual boardmanship training and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama, 1975, to provide that a city must have a population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama, 1975, to require that a city have a population of 15,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama, 1975, to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama, 1975 relating to dismissal of employees; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama, 1975, to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to amend Section 16-23-14, Code of Alabama, 1975, to require the State Board of Education to authorize and prescribe

minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evaluation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama, 1975 relating to tenure of school employees; to repeal Section 36-26-100, through Section 36-26-108 Code of Alabama, 1975 relating to the Fair Dismissal Law for school support personnel; to define teacher, support employee, superintendent, and employing board; to establish criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties and evaluation of principals, to provide for an appeal of the evaluation of principals, to provide that a contract of an employee is effective until superseded or cancelled, to provide that compensation may not be reduced for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama, 1975; to amend Section 18-8-2, Code of Alabama 1975, relating to terms of office for county boards of education members so as to further provide for the length of terms; and to repeal all conflicting laws.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This Act shall be known and may be cited as "The Education Accountability Act of 1992."

Section 2. Section 16-6-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-1.

(a) There is hereby created the Alabama Education Study Commission, herein called the commission, which shall constitute a permanent agency of the state and shall be composed of ~~eight~~ fifteen

~~members, to be appointed for a term of six years. one from each congressional district. Seven members are to be appointed by the Governor, for terms of eight years. two by the Lieutenant Governor, two by the Speaker of the House, one by the State Board of Education, one by the Alabama Association of School Boards, one by the Alabama Education Association, and one by the Business Council of Alabama. Of the members first appointed by the Governor, two shall serve for a two-year term, two shall serve for a three-year term, two shall serve for a four-year term, and one shall serve for a five-year term. Of the members first appointed by the Lieutenant Governor and the Speaker, one shall serve for a four-year term and one shall serve for a six-year term. The members appointed by the State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and Business Council of Alabama each shall serve a six-year term. Of the members first appointed, two shall serve for two years, two shall serve for four years, two shall serve for six years and two shall serve for eight years.~~ Vacancies shall be filled by the governor official or organization originally making the appointment for the unexpired term. The commission shall meet at times and places determined by it, and the members shall be entitled to receive ~~\$30.00~~ such per diem and mileage as provided for state employees on actual meeting days.

(b) All current terms of members serving on the commission shall expire on the effective date of this Act."

Section 3. Section 16-6-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-2.

The commission shall elect a chairman from the persons appointed by the Governor and a vice-chairman from among its the other members. ~~Five~~ Nine members of the commission shall constitute a quorum. The commission shall act only by a vote of a majority of its existing members."

Section 4. Section 16-6-5.1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-5.1.

(a) The legislature does hereby designate the Alabama Education Study Commission as a Standards on Excellence Commission. The commission is currently responsible for examining the public elementary and secondary schools and making an annual report on the status of

public education to the general public, the legislature and the Governor of the State of Alabama. It is the intent of the legislature that the Alabama Education Study Commission shall examine the required courses, testing programs for teacher candidates, promotion and retention standards, student assessment programs and the performance-based accreditation standards, as well as overall compliance under The Alabama Education Improvement Act of 1991 (Acts 1991, No. 91-323), and all present and future education reform efforts and report its findings to the Governor, legislature, and the State Board of Education and the general public. The State Department of Education shall consult with the commission on all plans required by the Alabama Education Improvement Act of 1991 and all present and future education reform efforts (Acts 1991, No. 91-323). In conjunction with the State Superintendent, the commission shall develop an Education Master Plan for the State of Alabama. The Education Master Plan shall be designed for a ten-year period and shall be updated annually. Once developed, the Education Master Plan shall be submitted to the State Board of Education for approval. The commission shall report annually on the success or accomplishment pursuant to the plan to the Governor, legislature, State Board of Education and the general public.

(b) The commission shall appoint a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement in education. Two of the persons appointed shall be from education, two from business, and one from labor. The committee shall serve at the pleasure of the commission. The grant system to be developed shall include input from the State Superintendent of Education and the State Board of Education. The grant system shall take into consideration and shall be coordinated with any private efforts establishing similar grant systems. Grants shall be funded from an appropriation made to the commission. The system to be developed for the awarding of grants shall take into consideration the financial ability of the local school system in which the school is located. It is the intent of the legislature that grants shall be equitably distributed among schools of varying financial ability. Grant applications shall be sent to the State Department of Education and the Public Affairs Research Council of Alabama for review and recommendation. The committee shall receive the recommendation of the State Department of Education and the Public Affairs Research Council of Alabama and shall have the final decision on grant recipients.

(c) The commission shall develop plans for improving parental involvement in the educational process of children. Such plans shall be submitted to the legislature not later than the first day of the 1993 regular session of the legislature."

Section 5. Section 16-8-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-8-1.

(a) The county board of education shall be composed of not fewer than five nor more than seven members, who shall be elected by the qualified electors of the county.

(b) Board members shall be persons of good moral character, with at least a high school education or G.E.D. equivalency, be of good standing in their respective communities, known for their honesty, business ability, public spirit and interest in the good of public education and, after election, successfully complete state funded boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards or any other such organization which shall be approved by the State Board of Education. Each county board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. No member of the county board of education shall be an employee of said board; provided, that in counties having populations of not less than 96,000 nor more than 106,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the board may serve as a board member and also as a teacher. Members shall not be required to hold teachers' certificates.

~~(b)~~ (c) County boards of education unless otherwise provided by law may use the provision of this subsection to establish single member election districts with one board member elected from each district. ~~School boards exercising this option may establish five or seven such districts.~~ Such plan shall be considered only after two weeks public notice has been given, outlining generally the school districts under consideration. The members so elected must be residents of the district in which election is sought. Such residency shall have been established at least one year before the general election at which the candidate is to be elected. The boundaries of such single member districts shall be determined by a majority vote of the county board of education. The county board of education shall apportion the districts according to the last federal decennial census for the county utilizing the principle of equal representation. Thereafter, each county board of education choosing to implement single member election districts shall reapportion those districts within six months following the publication of the results of each federal decennial census.

Section 6. Section 16-8-2 of the Code of Alabama, 1975, is amended to read as follows:

"Section 16-8-2.

At the general election of state and county officers, a member or members shall be elected for terms of ~~six~~ four years to succeed the member or members whose term or terms of office expire at that time. The members of the county board of education shall hold office until their successors have been elected and qualified. Before exercising any authority or performing any duties as a member of the county board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by article XVI of the state Constitution, the certificate whereof shall be filed in the office of the judge of probate of the county; however, the foregoing provision shall not be construed to modify any current or pending court order or court ordered settlement effective on or before December 31, 1992 which relates to the terms of office of county board of education members. It is further provided that current office holders shall complete the term for which they were elected and that the county commissions shall be responsible for providing for staggered terms for members of the county board of education. Notwithstanding any other provision in this act to the contrary, this act as applied to this section only, shall be effective on January 1, 1993. Those county board members who were elected for a term of six years shall be allowed to complete the term to which they were elected. The term of office of county board of education members may be set by local legislation to allow for staggered terms."

Section 7. Section 16-8-23, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-8-23.

(a) The county board of education shall appoint, upon the written recommendation of the county superintendent, all principals, teachers, clerical, and professional assistants authorized by the board. The county board may suspend or dismiss for immorality, misconduct in office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of chapter 24 of this title sections 29 and 30 of this act.

(b) The superintendent shall have the right to suspend any employee whether tenured or nontenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the

reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The board's decision shall be final, subject to such judicial review as may otherwise be provided by law.

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law."

Section 8. Section 16-9-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-9-1.

(a) There shall be a county superintendent of education in each county of this state who shall act as the chief ~~executive~~ administrative officer of the county board of education and who shall also be secretary of the county board of education. The county board of education of each county shall appoint a superintendent of schools for a term of from two to four years ~~from the first day of July next succeeding his appointment~~ which appointment may be terminated during said term for good cause.

(b) The county superintendent of education shall be a full-time employee devoted to public school business. The county superintendent of education shall receive such compensation and other allowances as the county board of education shall direct.

(c) No provision in this act shall be construed to repeal any local act of any county which provides for the popular election of the county superintendent of education."

Section 9. Section 16-9-12, Code of Alabama, 1975, relating to county superintendents of education and compensation is hereby repealed.

Section 10. Section 16-9-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-9-2.

(a) The county superintendent of education shall be chosen for his general fitness and character and shall be a person of recognized ability as a school administrator. No person shall be eligible for appointment by any county board of education or for any political party nomination, or for election to the office of county superintendent of education unless such person:

(1) Holds an Alabama certificate in administration and supervision based upon requirements established by the State Board of Education for such certificates;

(2) Has had not less than five years of experience in public school work at the time he assumes office;

(3) Submits proof to the State Superintendent of Education of three years of successful educational experience as a teacher, principal, supervisor, superintendent, educational administrator or instructor in school administration during the five years next preceding his appointment or election; and

(4) Submits proof to the county board of education that he holds a degree from a recognized four-year college or university, and that he is knowledgeable in school administration.

~~(5) If such person is to be appointed by the county board of education, submits proof to the county board that he is knowledgeable in school administration.~~

(b) A county superintendent of education, whether elected or appointed, need not be a ~~resident or~~ qualified elector of the county in which he is to serve. In every county where the county superintendent of education is elected by popular vote, he shall be nominated and elected in the same manner as other county officers are nominated and elected under the state election laws."

Section 11. Section 16-11-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-11-2.

(a) The general administration and supervision of the public schools and educational interest of each city shall be vested in a city board of education, to be composed of five members who shall be residents of such city, and who shall not be members of the city council or commission.

(b) The members of such city board of education, who shall, except as hereinafter provided, serve without compensation, shall be chosen solely because of their character and fitness, possess either a high school education or G.E.D. equivalency, and, after appointment or election, successfully complete annual state funded boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards or any other such organization which shall be approved by the State Department of Education. ~~but~~ Each city board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. ~~no~~ No person shall be appointed or elected to this board under the provision of this section who is in any way subject to the authority of the board; provided, that in cities having population of not less than 50,000 nor more than 60,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the board may serve as a board member and also as a classroom teacher.

(c) Each member of such city board in cities having a population of 300,000 or more according to the last or any subsequent federal census shall receive \$50.00 for each meeting of the board, whether special, regular or executive session, attended by him; provided, that no member shall receive more city board of education by resignation or otherwise, the fact shall be reported to the city council or commission by the said board, and the said council or commission shall elect a person to fill such a vacancy for the unexpired term. Before exercising any authority or performing any duties as a member of the city board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by Article XVI of the state constitution, the certificate whereof shall be filed in the office of the judge of probate of the county."

Section 15. Section 16-11-17, Code of Alabama, 1975, relating to salaries and dismissal of employees and salaries is hereby repealed.

Section 16.

(a) The city board of education shall appoint, upon the written recommendation of the city superintendent, all principals, teachers, clerical and professional assistants authorized by the board. The city board may suspend or dismiss for immorality, misconduct of office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of Sections 29 and 30 of this act.

(b) The superintendent shall have the right to suspend any employee whether tenured or nontenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The board's decision shall be final, subject to such judicial review as may be otherwise provided by law."

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law."

Section 17. Section 16-12-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-12-1.

~~The city board of education shall appoint a city superintendent of schools for a term of from two to four years to hold office at the pleasure of the board which appointment may be terminated during said term for good cause. The city superintendent of schools shall receive such compensation and other allowances as the city board of education shall direct. The city board of education may remove the city superintendent of schools for incompetency, immorality, misconduct in office, willful neglect of duty or when, in the opinion of the board, the best interests of the schools require it."~~

Section 18. Section 16-23-14, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-23-14.

For the purpose of setting up standards for the preparation of teachers, supervisors and administrative employees for service in the public schools, the State Board of Education shall authorize and prescribe minimum requirements on courses of study, organization, qualifications of instructors, buildings and equipment and sanitary con-

ditions, and it shall be the duty of the state superintendent of education or his professional assistants to visit institutions engaged in teacher-training, hold conferences with the teachers and officials of such institutions, explain the requirements of the State Board of Education relating to the preparation of teachers, look into the character of work being done and perform such other services as may be deemed advisable for the improvement of the training provided for prospective teachers of the public schools of the state. Furthermore, the State Board of Education shall authorize and prescribe minimum standards whereby each institution engaged in teacher-training shall be required to provide remediation to its teacher-training graduates who demonstrate a need, as reflected by a performance-based evaluation, for remedial training or development in his or her first three years of employment as a teacher. The teacher-training institution shall provide this remediation at no cost to its teacher-training graduates."

Section 19. Repeal of Alabama Tenure Law.

Sections 16-24-1 through 16-24-38, Code of Alabama, 1975, are hereby repealed.

Section 20. General Definitions.

(a) The term "teacher" is deemed to mean and include employees of county and city boards of education, the Alabama Institute for Deaf and Blind, Department of Youth Services School District, the Alabama School of Fine Arts and the Alabama School of Mathematics and Science who possess a certificate issued by the teacher certifying authority of the State of Alabama and who are employed in a position for which a certificate is required by the Alabama State Department of Education or Board of Education. Personnel employed on a full-time basis, as defined by the rules and regulations of the State Board of Education, at two-year educational institutions under the control and auspices of the State Board of Education who are employed in academic or technical education, including instructors, counselors, librarians, business managers, deans, assistant deans, and associate deans, are for purposes of this act deemed to be teachers and covered under the provisions herein; however, personnel employed at two-year colleges and the Alabama School of Mathematics and Science shall not be required to obtain a teaching certificate in order to maintain either their teaching position or tenure under the provisions of this act. Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, presidents, vice-presidents, provosts, or other chief administrative officers of employing boards shall not be deemed teachers within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

(b) "Employing board" shall be defined as a city or county board of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Board of Education of the Alabama Department of Youth Services School District; the Board of Directors of the Alabama High School of Mathematics and Science; and the Board of Directors of the Alabama School of Fine Arts; with regard to two-year educational institutions under the control and auspices of the State Board of Education, the term "employing board" when used in the context of the employing entity shall be defined as the respective educational institution, and when used in the context of the entity which is responsible for the final decision in a personnel action or proposed personnel action subject to the hearing procedure described in this act shall be the Chancellor of the Alabama Department of Postsecondary Education. The State Board of Education shall adopt such rules, regulations, and policies as may be necessary and appropriate to define the respective authority, duties, and responsibilities of the state's two-year educational institutions and the Chancellor regarding their respective roles as the employing board.

(c) "Superintendent" shall mean the chief administrative officer of the employing board and shall also include the president of two-year colleges under the control and auspices of the State Board of Education, and other covered institutions.

(d) Persons employed in supervisory positions are deemed teachers for purposes of this act if they possess a certificate and occupy a position for which a certificate is required.

Section 21. Support employee - Defined.

The term "support employee" is deemed to mean and include those persons employed full-time by a county or city board of education, two-year educational institution under the control and auspices of the State Board of Education, the Alabama Institute for Deaf and Blind (not to include production workers at the Alabama Industries for the Blind), educational and correctional institutions under the control and auspices of the Alabama Departments of Youth Services School District, the Alabama School of Mathematics and Science, the Alabama School of Fine Arts in a capacity other than "teacher," as that term is defined in Section 20 of this act, except for employees covered by the state merit system or other similar state statute; and provided further that a teacher who performs additional duties for which the teacher receives supplemental compensation shall not be deemed also to be a support employee as a result of performing those additional duties. Full-time employees are those employees whose duties require 20 or more hours in each normal working week or adults who are employed as bus

drivers. Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, presidents, vice-presidents, provosts, or other chief administrative officers of employing boards shall not be deemed support employees within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

Section 22. Criteria for determining teacher tenure.

(a) Any teacher who shall meet the following requirements shall attain tenure:

(1) Such teacher shall have served under contract with the same employing board or college for three consecutive, full school years and be renewed for employment for the next succeeding school year by such employing board or college. Any nontenured teacher shall be deemed offered reemployment for the succeeding school year at the same salary unless the employing board or college shall cause notice in writing to be given to said teacher on or before the last day of the school year in which the teacher is employed, and such teacher shall be presumed to have accepted such employment unless he shall notify the employing board or college in writing to the contrary on or before the fifteenth day of June. The employing board shall not cancel the contract of any tenured teacher, nor cause notice of nonemployment to be given to any tenured or nontenured teacher except by a vote of a majority of its members evidenced by the minute entries of said board made prior to or at the time of any such action.

(2) An instructor who has attained tenure and who is promoted to supervisor shall serve a probationary period of three consecutive years in that position. If the supervisor is not notified of nonrenewal in the position prior to the end of the third school year, the supervisor shall then attain tenure in that position. Such promotion shall in no way jeopardize the tenure of the supervisor as an instructor; and should the promoted instructor not be retained as supervisor, the supervisor's salary would be reduced to the salary paid instructors in accordance with the prevailing salary schedule of the employing board or college. Nonrenewal of a nontenured supervisor and reassignment to an instructor position shall not be deemed a contract cancellation or transfer for purposes of this act.

(3) The first year of employment shall count as a full year for purposes of attainment of tenure only if the teacher is employed by the employing board or college on or before the tenth working day of the second semester or quarter, whichever is applicable, and remains employed through the end of the school year.

(4) No partial teaching service during a school year, as school year is defined by the employing board of education or college, shall count toward the attainment of tenure, except as otherwise provided.

(5) As of the effective date of this act, any person who has attained tenure with an employing board or college shall retain such tenure.

(6) When two or more school systems or colleges are consolidated under one employing board or college, or when one or more schools are separated from a school system in order to become a part of or to constitute another school system, the tenure status of the employees involved in such changes is in no way jeopardized.

Section 23. Criteria for determining support tenure.

(a) A support employee who shall meet the following requirements shall attain tenure:

(1) An employee shall have been employed as a support employee by the same employing board or college for at least nine months in each of three consecutive school years.

(2) During the probationary period specified above, the employing board or college may terminate a support employee by furnishing said employee written notification thereof at least 15 calendar days prior to the effective date of termination.

(3) During the probationary period specified above, the superintendent shall evaluate annually the support employee.

(4) As of the effective date of this act, any nontenured employee who has attained tenure as a support employee with an employing board or college under prior laws shall retain tenure as a support employee in said system.

Section 24. Criteria for determining tenure of a principal.

(a) The term "principal" is deemed to mean and include only those persons certified by the State Board of Education who are employed by an employing board of education as the chief administrator of a school, including a vocational center.

(b) A principal shall attain tenure only in accordance with the provisions of this chapter.

(c) As of the effective date of this act, a principal who has attained tenure as a principal with an employing board under the prior tenure law shall retain tenure as a principal in said system. A tenured principal who has attained tenure previously with an employing board as an instructor or supervisor shall retain tenure as an instructor or supervisor in said system.

(d) As of the effective date of this act, no principal employed by an employing board of education shall attain tenure, except as otherwise provided herein.

(e) A tenured principal may elect nontenured employment with an employing board of education as follows:

(1) A tenured principal shall elect to be employed as a tenured or nontenured principal. The election shall be irrevocable.

(2) No later than two years from the effective date of this act, all currently employed principals shall elect to be employed either as a tenured or nontenured principal. The election is irrevocable, except as otherwise provided by this act.

(3) Employees hired as nontenured first-time principals shall be employed for a three-year period under a performance-based contract; provided, however, that an employee who has never been employed as a principal may, upon the mutual agreement of that employee and the employing board, be employed as a nontenured principal under a performance-based contract for a three-year period which contains a one-year probationary period. In such instances the remaining two years of the contract shall be contingent upon the receipt of a satisfactory first year evaluation. The performance-based contract shall be developed by the employing board of education, but shall utilize any criteria for the evaluation of a principal developed by the State Board of Education. A currently tenured principal who elects nontenured employment shall receive a \$5,000.00 annual salary increase, funded annually through the Alabama Special Educational Trust Fund and received by the principal as salary, based upon the salary schedule and methodology utilized by the employing board. For each contract year thereafter, the principal shall be entitled to a base salary which is \$5,000.00 more than the salary to which he would otherwise be entitled. The above salary increase shall be in addition to any pay raise granted by either the legislature or the local board of education. Said salary increase shall be considered for purposes of calculating teacher retirement and other benefits which are or may be provided by either the legislature or local board of education. Any currently tenured principal electing nontenured employment shall

retain as a part of his salary the \$5,000.00 salary increase regardless of the principal's subsequent employment with another employing board.

(4) The superintendent or designee shall evaluate annually the performance of a nontenured principal. For each year of satisfactory evaluation, the contract of a nontenured principal shall be automatically extended for one school year, as school year is defined by the county or city board of education. The local board, upon the recommendation of the superintendent, may at any time enter into a new three-year contract with a nontenured principal.

(5) In the event of an unsatisfactory evaluation, a conference shall be held with the nontenured principal and a plan of professional development shall be presented by the superintendent to the nontenured principal which specifies the area(s) of unsatisfactory performance and establishes a plan to correct the unsatisfactory performance. A nontenured principal shall complete the plan of professional development prior to the next evaluation. Within seven days of completion of the plan of development, a nontenured principal may request a reevaluation. If the reevaluation is satisfactory, then the contract of the nontenured principal shall be extended for one school year. If the results of the reevaluation are unsatisfactory, then the nontenured principal shall be informed of the reason(s) for the unsatisfactory reevaluation. In cases where the superintendent performs the initial evaluation, the review shall be performed by a local employee designated by the superintendent. A review of an evaluation shall be completed within 30 days of receipt of request for reevaluation.

(6) If, within the three-year contract period, a nontenured principal received two consecutive annual unsatisfactory evaluations and the nontenured principal has completed all plans for professional development, then within seven days of receipt of the second unsatisfactory evaluation, the nontenured principal may file with the employing board an affidavit under oath which alleges facts that the second unsatisfactory evaluation was motivated by personal or political reasons. The investigation of such allegation shall be conducted by the employing board, unless the superintendent or principal objects, in which case the investigation shall be conducted by a person designated by the State Superintendent; provided further, that if the superintendent or principal objects, the investigation shall be conducted by a person designated by the Chairman of the Standards on Excellence Commission. If the investigation finds the allegation to be supported by clear and convincing evidence, then the local board shall designate a professionally qualified person who shall conduct a re-evaluation of the principal within 30 days. If the re-evaluation is unsatisfactory, then the principal may

again file an affidavit under oath with the previously identified designee alleging personal or political motivation. If the designated investigator again finds the allegations to be supported by clear and convincing evidence, then the second unsatisfactory evaluation shall be void and a final re-evaluation shall be conducted by the designated investigator. If the final re-evaluation is satisfactory, then the contract of the principal shall be extended for one year. Nothing in this subsection shall be construed to limit other reasons for dismissal of a nontenured principal which are otherwise provided by law.

(7) Any nontenured principal who has received an unsatisfactory annual evaluation and thereafter shall in two successive years receive satisfactory evaluations shall be deemed to have been restored to a three-year contract with his employing board.

(8) A nontenured principal may be transferred or dismissed at any time during the term of the principal's contract by being afforded the hearing rights and procedures outlined herein for any other tenured employee.

(f) All current tenured principals not electing to be employed as nontenured principals shall be deemed to have elected to remain as tenured principals. A tenured principal shall have the opportunity to elect to be employed as a nontenured principal as provided in this act.

(g) For three years after the effective date of this act, an employing board, for periods of time not to exceed 90 days, may allow a tenured principal to elect to change his employment to that of a nontenured principal. The election is irrevocable. Within the three-year period above, the employing board may allow for multiple opportunities for a tenured principal to change his employment to that of a nontenured principal.

(h) As of the effective date of this chapter, an employing board shall not reduce the salary schedule of a principal below the 1992-93 salary schedule level.

Section 25. Duties and Evaluation of Principal.

(a) A principal shall supervise the daily operation and management of personnel, finances, facilities, and other matters of the school or campus for which he is responsible. A principal shall assume the administrative responsibility and instructional leadership, as directed by the superintendent, consistent with the employing board policy, for the planning, management, operation, and evaluation of the education program

of the school or campus under the principal's responsibility.

(b) A principal shall make a written recommendation to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school or campus under his responsibility. If a recommendation of a principal is rejected, then the principal shall submit a second recommendation. The superintendent shall have final authority for personnel assignments within the school system.

(c) A principal shall observe all rules, policies, and procedures relative to the operation of the public schools as established by applicable laws, rules, and standards of both the State Board of Education and the employing school board.

(d) A principal shall perform all other duties assigned by the superintendent, consistent with the employing board's policy.

Section 26. Contract of employment effective until superseded or cancelled.

The contract of employment of any tenured employee shall remain in full force and effect unless superseded by a new contract signed by both parties, or cancelled as provided in Section 29 of this act.

Section 27. Change of compensation for succeeding year.

The salary or compensation of any tenured employee may be changed for any succeeding year to accord with a general salary schedule adopted by the employing board of education; provided, that no salary schedule shall operate to compensate teachers in less sums than the sums contained in a minimum salary schedule which may be adopted by the State Board of Education for teachers in the public schools or colleges of the state.

Section 28. Transfer of tenured and nontenured employees.

(a) A superintendent may transfer or reassign any nontenured teacher or nontenured support employee at any time, and the transfer shall be effective immediately.

(b) A superintendent may transfer any tenured teacher from one position, school, or grade to another by giving written notice of such transfer, and the reasons therefor, at any time not later than 30 calendar days prior to the commencement of the school year for which the trans-

fer is to be effective. For purposes of this subsection, the school year shall commence on the first day of attendance by students. The transfer shall be effective at the commencement of the school year. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the teacher proves that the transfer was arbitrary, capricious, or based upon personal or political reasons on behalf of the superintendent or employing board. No such transfer shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(c) In addition to the transfer procedure specified in subsection (b) above, a superintendent may transfer any tenured teacher from one position, school, or grade to another by giving written notice of such transfer and the reasons therefor at any time not later than ten working days after the commencement of the school year for which the transfer is to be effective. The ten-day period shall begin on the first day of attendance by students. The superintendent shall, before initiating any transfer under this subsection, publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred teacher. The publication shall be made for a period of not fewer than five working days. If school is in session, such publication shall be made at all relevant schools and other relevant school work sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to reduce the number of teacher units in a school or school work site because of student enrollment, the notice need be posted only at the school or school work site from which a teacher is to be transferred. If school is not in session, the publication shall be made by notice posted at the office of the superintendent. Any teacher may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured teacher involuntarily. Where the reason for the transfer is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall not transfer a tenured teacher if there is employed in the same school a nontenured teacher whose transfer would reasonably accomplish the superintendent's purpose. Upon expiration of the five-day publication period, but in no event later than the tenth working day as herein provided, the superintendent may effect the transfer of a tenured teacher by giving the required notice. The transfer shall be effective at the commencement of

the school year or, if the notice is given after commencement of the school year, upon receipt by the teacher of the notice. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. In proceedings contesting a transfer under this subsection, the superintendent shall bear the burden of proving that there was a sound educational or programmatic reason for the transfer. If the reason for the transfer under this subsection is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the circumstances necessitating the transfer were not known to the superintendent in time to initiate the transfer at least 30 days before the commencement of school. If the transfer under this subsection is for a reason other than to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the superintendent could not reasonably have known or anticipated the circumstances necessitating the transfer in time to initiate the transfer at least 30 days before the commencement of school. No transfer under this subsection shall result in loss of tenure or violation of contract and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(d) Any tenured teacher transferred under subsection (c) shall be entitled, for a period of two years commencing with the effective date of the transfer, to return to the school from which the teacher was transferred if a vacancy occurs in the field in which the teacher was teaching at the time of the transfer, and the employing board intends to fill such vacancy. If the employing board intends to fill such vacancy, the superintendent shall notify the transferred teacher of the vacancy and, if otherwise qualified at the time for the position, the teacher shall be entitled to return to such position.

(e) A superintendent may transfer a tenured support employee at any time from one job classification, school, or work site to another by giving written notice of such transfer, and the reasons therefor. For purposes of this subsection, "transfer" does not include a reassignment which would cause the employee to work at a facility or site which is located on the same campus or contiguous parcel of real estate as the school or work site at which the employee was previously working. The support employee's "school or work site" shall include all facilities or grounds of the employing board at which the employee works or may be reasonably expected to work as part of the employee's regular job responsibilities. Before initiating an involuntary transfer of a tenured

support employee, the superintendent shall publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred employee. The publication shall be made for a period of not fewer than five working days. Such publication shall be made at all relevant work sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to decrease the number of support employees at a school or work site, the notice need be posted only at the school or work site from which a support employee is to be transferred. Any support employee may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured support employee involuntarily. Upon expiration of the five-day publication period the superintendent may effect the transfer of a tenured support employee by giving the required notice. The transfer of a tenured support employee shall take effect immediately upon notification by the superintendent, except that the support employee may request for hardship reasons to delay the transfer for not more than five working days, which request shall not be unreasonably denied. A tenured support employee affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the support employee proves that the transfer was arbitrary, capricious, or based upon personal or political reasons on behalf of the superintendent or employing board. If the superintendent declined to accept any volunteer for the transfer and the support employee contests the transfer on that basis, the support employee shall bear the burden of proving that the superintendent's decision was not reasonable under the circumstances. No transfer under this subsection shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations. Nothing herein shall prohibit the superintendent from making a temporary transfer of a tenured support employee, for a period not to exceed ten working days, when the superintendent determines that exigent circumstances require such action.

(f) If a tenured teacher or tenured support employee successfully contests a transfer, such employee shall be entitled to resume his former position at the following times: (1) at the time of the employing board's final decision disallowing the transfer, or (2) at the time of a decision of the Alabama Court of Civil Appeals reversing the action of the employing board if the employing board rejected the recommendation of the hearing

officer and permitted the transfer to remain in effect.

Section 29. Cancellation of contract - grounds.

Cancellation of an employment contract of a tenured employee may be made for failure to perform duties in a satisfactory manner, incompetency, insubordination, neglect of duty, immorality, justifiable decrease in the number of positions, or other good and just cause. Cancellation shall not occur for political or personal reasons. No cancellation shall be initiated against any tenured employee after the expiration of three years from the date such cause became known to the employing board. Provided, however, that evidence of events and circumstances predating the three-year period may be considered if determined by the hearing officer to be relevant.

Section 30. Hearing Procedure.

(a) The following hearing procedure shall be followed for all transfers or cancellations of contracts of tenured employees. No action shall lie for the recovery of damages for the breach of any employment contract of an employee of an employing board.

(b) The superintendent shall initiate all transfers and cancellations of contracts of tenured employees by giving written notice of the proposed personnel action. The notice shall contain:

(1) a statement of the proposed personnel action and the statutory authority for such action;

(2) a statement of the right to request a hearing and a brief outline of the hearing process and rights of the employee; and

(3) a detailed statement of the reasons for the proposed action.

(c) Service of Notice. The notice may be served in either of the following ways:

(1) personal service, with a copy mailed to the last known address of the employee, or

(2) certified mail, return receipt requested mailed to the last known address of the employee.

(d) Request for Hearing. An employee may request a hearing to contest a proposed action. The request shall be in writing, filed with the

superintendent, and received by the superintendent within seven calendar days of the date of receipt of notice of the proposed action. Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the proposed personnel action to become final and effective immediately upon approval by the employing board.

(e) Selection of hearing officer.

(1) If a hearing is requested timely, a hearing officer shall be appointed from a roster of hearing officers provided by the American Arbitration Association in accordance with their expedited procedures. All hearing officers shall meet the following requirements:

(i) be experienced and knowledgeable in education and personnel matters or attend training administered jointly by the Alabama Education Association and the Alabama Association of School Boards; and

(ii) shall be a resident of a member state of the Southern Regional Education Board.

(2) It shall be the duty of the superintendent to notify the American Arbitration Association that a hearing has been requested and to whom the rosters should be mailed. Within seven calendar days of receipt of a request for a hearing, the names of seven potential hearing officers shall be furnished by the American Arbitration Association to the parties and any attorney who has filed an appearance on the part of a party. If a party has had an attorney file an appearance on their behalf, service of the list of potential hearing officers on that attorney shall be deemed as service on the party. Each party shall within seven calendar days strike no more than two names from the list and notify the American Arbitration Association of the strike(s). The strikes shall be made independently by the parties without reference to any strikes that the other party may choose to make. At the conclusion of the seven calendar day striking period, the American Arbitration Association shall designate a hearing officer from the names that were not eliminated by strikes of the parties.

(f) Conduct of hearing, authority of hearing officer.

(1) The hearing shall commence within 14 calendar days of selection of the hearing officer. The hearing officer shall establish a time and place for the hearing, which shall be held in a suitable site provided by the employing board.

(2) In the conduct of a hearing, the hearing officer shall have authority to:

- (i) maintain order;
- (ii) cause a record of the proceedings to be made;
- (iii) establish reasonable time limits for the conduct of the proceedings;
- (iv) rule on the admissibility of evidence, including the number of witnesses to testify for either party;
- (v) issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence. Upon request, the hearing officer shall issue subpoenas for witnesses to testify either in support of the charges or on behalf of the employee, and such witnesses shall be entitled to receive the same mileage and per diem as witnesses called in civil cases in the circuit court of the county where the hearing is held, the same to be paid out of school funds; provided, that the local board shall not be accountable for the witness fees of more than ten of the witnesses subpoenaed by the employee. In case a person refuses to obey such subpoena, the hearing officer may invoke the aid of the circuit court in order that the testimony or evidence be produced; and, upon proper showing, such court shall issue a subpoena or order requiring such person to appear before the hearing officer and produce evidence and give testimony relating to the matter at issue; a person failing to obey the court's subpoena or order shall be punishable by the court as for contempt;
- (vi) if necessary, hold a prehearing conference, to be conducted by telephone if appropriate, or issue an order to clarify the matter(s) in dispute; establish the order of presentation; allow and establish time limits for the exchange of exhibits and names of witnesses; and
- (vii) enter an order on any other matter which would facilitate the conduct of the hearing, including the suspension, for good cause shown, of any time period established herein.

(3) At the option of the employee, the hearing may be closed to the public; provided, that any board member may attend all or part of a hearing. Attendance in the hearing as an observer disqualifies the board member as a witness at the hearing.

(4) Record of Proceedings.

(i) It shall be the responsibility of the superintendent to maintain the record of the hearing which shall include:

1. the notice of proposed action;
2. the request for a hearing;
3. all evidence admitted during the hearing;
4. a transcript of the proceedings;
5. a statement of all matters officially noticed;
6. all questions and offers of proof, objections, and rulings thereon;
7. the written recommendation of the hearing officer; and
8. the final decision of the employing board.

(ii) The proceedings shall be recorded by a qualified court reporter. The cost of transcription shall be paid by the employing board. The parties shall ensure that the transcript is completed no later than 21 calendar days after conclusion of the hearing.

(5) Costs and expenses. The parties shall bear their own costs and expenses. The parties shall bear equally all costs attributable to the hearing officer.

(6) Expedited Proceedings. In order to expedite the hearing process contemplated by this act, all communications except the initial notice to the employee of the proposed personnel action may be by facsimile transmission or other means of expedited delivery.

(7) Settlement.

(i) Informal dispositions may be made of any matter by stipulation, agreed settlement, consent order, or by another method agreed upon by the parties in writing. An informal disposition shall be final and binding upon the parties.

(ii) At any time after submission of a request for a hearing, an employee may, in writing, withdraw his request for a hearing. Upon withdrawal, the proposed personnel action shall become final immediately upon approval by the employing board.

(8) Report of Hearing Officer; Employing Board Action.

(i) Within seven calendar days of conclusion of the hearing, the hearing officer shall submit a written report to the employee and the employing board. The report shall include a brief statement of the nature and course of the proceedings; a statement of the reason(s) for the proposed personnel action, findings of fact, and a recommended decision on the proposed personnel action. If the employee contends that procedural errors have occurred in the proceedings which have substantially prejudiced his rights, the hearing officer's report shall include appropriate findings of fact relating to that contention, and a recommended disposition.

(ii) Within 14 calendar days of receipt of the record of proceedings compiled to that point, the employing board shall render its final decision. The employing board shall not be bound by the proposed decision submitted by the hearing officer; however, the findings of fact of the hearing officer shall be accorded a presumption of correctness. The final decision of the board shall be in writing. If the board determines that facts found by the hearing officer are against the great weight of the evidence and clearly erroneous, the board may reject those findings, in which case it shall state in writing its own findings of fact. If the employing board does not accept the hearing officer's recommendation on the proposed personnel action, the employing board shall render its independent decision in writing. If the board chooses to accept the recommendation of the hearing officer, it shall so state in writing. Nothing herein shall preclude the employing board from ordering a disposition other than that recommended by the superintendent.

(iii) The final decision of the employing board shall be served upon the employee in the same manner as service of a notice of a proposed personnel action. Except as otherwise provided in this act, the employing board's decision shall be final as of the day of its adoption.

(iv) In contract cancellation proceedings, the employee shall be removed from the payroll and the employee's salary cease at the time of the employing board's final decision cancelling the employee's contract. If the employing board accepts the recommendation of the hearing officer, but is later reversed, the employee shall be entitled to reinstatement and back pay. If the employing board rejects the recommendation of the hearing officer, and is later reversed, the employee shall be entitled to reinstatement, back pay, and interest at 9 percent per annum thereon.

Section 31. Appeal of Final Decision of Employing Board.

(a) A tenured employee may appeal the final decision of an employing board only to the Alabama Court of Civil Appeals. The appeal shall be filed within 14 calendar days of the employing board's final decision. The appeal will be perfected by filing a written notice of appeal with the superintendent, who shall transmit the notice and the record of proceedings to the Clerk of the Alabama Court of Civil Appeals within 14 calendar days of receipt of the notice of appeal. Failure by the employee to file a timely notice of appeal shall result in the employing board's decision becoming final, and failure by the superintendent to transmit timely the notice and record of proceedings shall result in a decision in favor of the employee.

(b) On appeal, the findings of fact of the hearing officer shall be entitled to a presumption of correctness. If the employing board has rejected some or all of the hearing officer's proposed findings, and has substituted its own findings, the findings by the employing board are not entitled to a presumption of correctness, but the appellate court shall consider the employing board's findings in determining whether the findings of fact of the hearing officer are clearly erroneous. The employing board's decision on the proposed personnel action will be affirmed unless the decision (1) does not have substantial support in the facts as determined by the hearing officer, or, if the hearing officer's findings are determined to be clearly erroneous in the facts established in the record as a whole; or, (2) is in violation of constitutional or statutory provisions; or, (3) is in excess of the statutory authority of the employing board; or, (4) is in violation of any pertinent, duly adopted policy of the employing board which violation worked to the substantial prejudice of the employee; or, (5) is made upon irregular or unlawful procedure which worked to the substantial prejudice of the employee; or, (6) is unreasonable, arbitrary, capricious, or characterized by an abuse of discretion; or, (7) would result in a disposition of the personnel matter which would be plainly unjust.

Section 32. Cancellation of Contract by Employee.

No employee, whether or not tenured, shall be permitted to cancel his contract during the school year for which said contract is in effect, nor for a period of 45 days prior to the beginning of such school year, unless such cancellation is mutually agreed upon; or unless such employee has been notified of a transfer fewer than 30 days prior to the first day of attendance by students. Any teacher cancelling his or her contract in any other manner than in this section shall be deemed guilty of unprofessional conduct, and the state superintendent of education is hereby authorized to revoke or suspend the certificate of said teacher.

Section 33. Effect of Leave of Absence on Tenure.

(a) Leave of absence for a period of one year for good cause may be granted to a tenured employee by the employing board of education without the impairment of the tenure status of an employee; provided, that for valid reasons the board may extend the leave of absence for one additional year; and provided further, that upon the request of an employee who has heretofore or who shall hereafter enter the military service of the United States at a time when there is an existing state of war between the United States of America and any other country, a leave of absence shall be granted to such employee for the duration of the war and until the beginning of the school year next succeeding the date on which said employee is released from said military service; and, on or before such date, said employee must give written notice to the employing board of education whether or not he desires to be reemployed by said board. If such notice is not received by the employing board of education, or if the employee notifies the employing board on or before the date specified above that he does not desire re-employment, the employing board has no further responsibility with respect to re-employment of said employee. The term "military service of the United States," as used herein, shall include the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps, the Coast Guard, the Army Specialist Corps, the Women's Army Auxiliary Corps, the Women's Volunteer Reserve of the United States Navy, those persons commissioned in the public health service, or those persons entering into the service of any similar organization heretofore or hereafter formed by the government of the United States.

(b) A nontenured employee entering the military service of the United States who has accumulated one or more school years of experience with an employing board of education immediately prior to entering military service shall be given credit for such experience with the employing board of education in attaining tenure, if such employee is re-employed by said board of education within one year after the release of that employee from military service.

Section 34. Repeal of Fair Dismissal Act.

All provisions of Alabama Code Sections 36-26-100 through 36-26-108, Code of Alabama, 1975, are hereby repealed.

Section 35. Abolition of Boards of School Trustees.

(a) Section 16-10-1 through 16-10-11, Code of Alabama, 1975, are hereby repealed.

(b) Any board of school trustees currently in existence is hereby

abolished. All books, records, and funds maintained or held by any board of school trustees currently in existence shall be delivered without delay to the principal of the school.

Section 36. All cases involving tenure or continuing service status under Title 16, Chapter 24, Code of Alabama, 1975, as amended (Teacher Tenure Law) and Title 36, Chapter 26, Code of Alabama, 1975, (Fair Dismissal Act), in which notice of proposed cancellation of contract or transfer was served on the affected employee prior to the effective date of this act shall proceed under the laws, procedures and rules in said statutes as if said statutes remained in effect. By written agreement, which shall be included in the record of proceedings, the tenured employee and the superintendent may elect after the effective date of this Act to proceed instead under the provisions of this Act.

Section 37. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 38. All laws or parts of laws that conflict with this act are hereby repealed.

Section 39. This act shall be effective for all fiscal years or periods beginning after September 30, 1992, if the constitutional amendment proposed by House Bill 252 of the 1992 regular session has been ratified by the people and proclaimed by the Governor as required by law.

Which was adopted.

Yeas 23 Nays 7

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Wilson

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Nays:

Senators:

Amari, Bedsole, deGraffenried, Dial, Ellis, Little, and Windom

- 7

On motion of Senator Corbett the Senate reconsidered the vote by which the substitute for HB 221 was adopted by the Senate.

On motion of Senator Corbett said substitute was laid on the table.

Senator Bennett offered the following substitute No. 2 for the Bill, HB 221, to-wit:

SUBSTITUTE FOR HB 221

**A BILL
TO BE ENTITLED
AN ACT**

To give the Act a title; to amend Section 16-6-1, Code of Alabama, 1975, to require the appointment of 15 members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission, to change the length of terms for members of the Alabama Education Study Commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama, 1975, to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama, 1975, relating to the duties and responsibilities of the Standards on Excellence Commission, to require the creation of an Education Master Plan to be approved by the State Board of Education, and to provide for the appointment of a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement of education, to provide for the appointment of this committee by the Alabama Education Study Commission and to provide that the commission shall develop plans for improving parental involvement in the educational process of children; to amend Section 16-8-1, Code of Alabama, 1975, regarding the qualifications for membership on a county board of education to provide that a member of a county board of education have a high school education or a G.E.D. equivalency and after election successfully complete annual boardmanship training and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-23, Code of Alabama, 1975, to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama, 1975; to repeal Section 16-9-12, Code of Alabama, 1975, relating to county superintendents of education; to amend Section 16-11-2, Code of Alabama, 1975, regarding

the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete annual boardmanship training and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama, 1975, to provide that a city must have a population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama, 1975, to require that a city have a population of 15,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama, 1975, to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama, 1975 relating to dismissal of employees; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama, 1975, to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to amend Section 16-23-14, Code of Alabama, 1975, to require the State Board of Education to authorize and prescribe minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evaluation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama, 1975 relating to tenure of school employees; to repeal Section 36-26-100, through Section 36-26-108 Code of Alabama, 1975 relating to the Fair Dismissal Law for school support personnel; to define teacher, support employee, superintendent, and employing board; to establish criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties and evaluation of principals, to provide for an appeal of the evaluation of principals, to provide that a contract of an employee is effective until superseded or cancelled, to provide that compensation may not be reduced for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing

procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama, 1975; to amend Section 18-8-2, Code of Alabama, 1975, relating to terms of office for county boards of education members so as to further provide for the length of terms; to provide for the election of the city board of education of Class 1 municipalities, and to repeal all conflicting laws.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This Act shall be known and may be cited as "The Education Accountability Act of 1992."

Section 2. Section 16-6-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-1.

(a) There is hereby created the Alabama Education Study Commission, herein called the commission, which shall constitute a permanent agency of the state and shall be composed of ~~eight~~ fifteen members, to be appointed for a term of six years. ~~one from each congressional district.~~ Seven members are to be appointed by the Governor, for terms of eight years, two by the Lieutenant Governor, two by the Speaker of the House, one by the State Board of Education, one by the Alabama Association of School Boards, one by the Alabama Education Association, and one by the Business Council of Alabama. Of the members first appointed by the Governor, two shall serve for a two-year term, two shall serve for a three-year term, two shall serve for a four-year term, and one shall serve for a five-year term. Of the members first appointed by the Lieutenant Governor and the Speaker, one shall serve for a four-year term and one shall serve for a six-year term. The members appointed by the State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and Business Council of Alabama each shall serve a six-year term. Of the members first appointed, two shall serve for two years, two shall serve for four years, two shall serve for six years and two shall serve for eight years. Vacancies shall be filled by the ~~governor~~ governor official or organization originally making the appointment for the unexpired term. The commission shall meet at times and places determined by it, and the members shall be entitled to receive ~~\$30.00~~ such per diem and mileage as provided for state employees on actual meeting days.

(b) All current terms of members serving on the commission shall expire on the effective date of this Act."

Section 3. Section 16-6-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-2.

The commission shall elect a chairman from the persons appointed by the Governor and a vice-chairman from among its the other members. Five Nine members of the commission shall constitute a quorum. The commission shall act only by a vote of a majority of its existing members."

Section 4. Section 16-6-5.1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-6-5.1.

(a) The legislature does hereby designate the Alabama Education Study Commission as a Standards on Excellence Commission. The commission is currently responsible for examining the public elementary and secondary schools and making an annual report on the status of public education to the general public, the legislature and the Governor of the State of Alabama. It is the intent of the legislature that the Alabama Education Study Commission shall examine the required courses, testing programs for teacher candidates, promotion and retention standards, student assessment programs and the performance-based accreditation standards, as well as overall compliance under The Alabama Education Improvement Act of 1991 (Acts 1991, No. 91-323), and all present and future education reform efforts and report its findings to the Governor, legislature, and the state board of education and the general public. The State Department of Education shall consult with the commission on all plans required by the Alabama Education Improvement Act of 1991 and all present and future education reform efforts (Acts 1991, No. 91-323). In conjunction with the State Superintendent, the commission shall develop an Education Master Plan for the State of Alabama. The Education Master Plan shall be designed for a ten-year period and shall be updated annually. Once developed, the Education Master Plan shall be submitted to the State Board of Education for approval. The commission shall report annually on the success or accomplishment pursuant to the plan to the Governor, legislature, State Board of Education and the general public.

(b) The commission shall appoint a committee of five persons to develop and implement a system to provide grants to individual schools

for innovation and improvement in education. Two of the persons appointed shall be from education, two from business, and one from labor. The committee shall serve at the pleasure of the commission. The grant system to be developed shall include input from the State Superintendent of Education and the State Board of Education. The grant system shall take into consideration and shall be coordinated with any private efforts establishing similar grant systems. Grants shall be funded from an appropriation made to the commission. The system to be developed for the awarding of grants shall take into consideration the financial ability of the local school system in which the school is located. It is the intent of the legislature that grants shall be equitably distributed among schools of varying financial ability. Grant applications shall be sent to the State Department of Education and the Public Affairs Research Council of Alabama for review and recommendation. The committee shall receive the recommendation of the State Department of Education and the Public Affairs Research Council of Alabama and shall have the final decision on grant recipients.

(c) The commission shall develop plans for improving parental involvement in the educational process of children. Such plans shall be submitted to the legislature not later than the first day of the 1993 regular session of the legislature."

Section 5. Section 16-8-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-8-1.

(a) The county board of education shall be composed of not fewer than five nor more than seven members, who shall be elected by the qualified electors of the county.

(b) Board members shall be persons of good moral character, with at least a high school education or G.E.D. equivalency, be of good standing in their respective communities, known for their honesty, business ability, public spirit and interest in the good of public education and, after election, successfully complete state funded boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards and/or any other such organization which shall be approved by the State Board of Education. Each county board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. No member of the county board of education shall be an employee of said board; provided, that in counties having populations of not less than 96,000 nor more than 106,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the

board may serve as a board member and also as a teacher. Members shall not be required to hold teachers' certificates.

~~(b) (c)~~ County boards of education unless otherwise provided by law may use the provision of this subsection to establish single member election districts with one board member elected from each district. ~~School boards exercising this option may establish five or seven such districts.~~ Such plan shall be considered only after two weeks public notice has been given, outlining generally the school districts under consideration. The members so elected must be residents of the district in which election is sought. Such residency shall have been established at least one year before the general election at which the candidate is to be elected. The boundaries of such single member districts shall be determined by a majority vote of the county board of education. The county board of education shall apportion the districts according to the last federal decennial census for the county utilizing the principle of equal representation. Thereafter, each county board of education choosing to implement single member election districts shall reapportion those districts within six months following the publication of the results of each federal decennial census.

Section 6. Section 16-8-2 of the Code of Alabama 1975, is hereby amended to read as follows:

"§16-8-2.

At the general election of state and county officers, a member or members shall be elected for terms of ~~six~~ four years to succeed the member or members whose term or terms of office expire at that time. The members of the county board of education shall hold office until their successors have been elected and qualified. Before exercising any authority or performing any duties as a member of the county board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by article XVI of the state Constitution, the certificate whereof shall be filed in the office of the judge of probate of the county; however, the foregoing provision shall not be construed to modify any current or pending court order or court-ordered settlement effective on or before December 31, 1992, which relates to the terms of office of county board of education members. It is further provided that current office holders shall complete the term for which they were elected and that the county commissions shall be responsible for providing for staggered terms for members of the county board of education. Notwithstanding any other provision in this act to the contrary, this act as applied to this section only, shall be effective on January 1, 1993. Those county board members who were elected for a term of six years shall be allowed to complete the term to which they were elected. The

term of office of county board of education members may be set by local legislation to allow for staggered terms."

Section 7. Section 16-8-23, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-8-23.

(a) The county board of education shall appoint, upon the written recommendation of the county superintendent, all principals, teachers, clerical, and professional assistants authorized by the board. The county board may suspend or dismiss for immorality, misconduct in office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of chapter 24 of this title sections 29 and 30 of this act.

(b) The superintendent shall have the right to suspend any employee whether tenured or nontenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The board's decision shall be final, subject to such judicial review as may be otherwise provided by law.

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law."

Section 8. Section 16-9-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-9-1.

(a) There shall be a county superintendent of education in each county of this state who shall act as the chief ~~executive~~ administrative officer of the county board of education and who shall also be secretary

of the county board of education. The county board of education of each county shall appoint a superintendent of schools for a term of from two to four years ~~from the first day of July next succeeding his appointment~~ which appointment may be terminated during said term for good cause.

(b) The county superintendent of education shall be a full-time employee devoted to public school business. The county superintendent of education shall receive such compensation and other allowances as the county board of education shall direct.

(c) No provision in this act shall be construed to repeal any local act of any county which provides for the popular election of the county superintendent of education."

Section 9. Section 16-9-12, Code of Alabama, 1975, relating to county superintendents of education and compensation is hereby repealed.

Section 10. Section 16-9-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-9-2.

(a) The county superintendent of education shall be chosen for his general fitness and character and shall be a person of recognized ability as a school administrator. No person shall be eligible for appointment by any county board of education or for any political party nomination, or for election to the office of county superintendent of education unless such person:

(1) Holds an Alabama certificate in administration and supervision based upon requirements established by the State Board of Education for such certificates;

(2) Has had not less than five years of experience in public school work at the time he assumes office;

(3) Submits proof to the State Superintendent of Education of three years of successful educational experience as a teacher, principal, supervisor, superintendent, educational administrator or instructor in school administration during the five years next preceding his appointment or election; and

(4) Submits proof to the county board of education that he holds a degree from a recognized four-year college or university, and that he is knowledgeable in school administration.

~~(5) If such person is to be appointed by the county board of~~

~~education, submits proof to the county board that he is knowledgeable in school administration.~~

(b) A county superintendent of education, whether elected or appointed, need not be a ~~resident or~~ qualified elector of the county in which he is to serve. In every county where the county superintendent of education is elected by popular vote, he shall be nominated and elected in the same manner as other county officers are nominated and elected under the state election laws."

Section 11. Section 16-11-2, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-11-2.

(a) The general administration and supervision of the public schools and educational interest of each city shall be vested in a city board of education, to be composed of five members who shall be residents of such city, and who shall not be members of the city council or commission.

(b) The members of such city board of education, who shall, except as hereinafter provided, serve without compensation, shall be chosen solely because of their character and fitness, possess either a high school education or G.E.D. equivalency, and, after appointment or election, successfully complete annual state funded boardmanship training as provided and under guidelines developed by the Alabama Association of School Boards and/or any other such organization which shall be approved by the State Board of Education. ~~but~~ Each city board of education shall certify annually to the State Department of Education successful completion by each of its members of boardmanship training. ~~no~~ No person shall be appointed or elected to this board under the provision of this section who is in any way subject to the authority of the board; provided, that in cities having population of not less than 50,000 nor more than 60,000 according to the most recent federal decennial census, not more than one classroom teacher employed by the board may serve as a board member and also as a classroom teacher.

(c) Each member of such city board in cities having a population of 300,000 or more according to the last or any subsequent federal census shall receive \$50.00 for each meeting of the board, whether special, regular or executive session, attended by him; provided, that no member shall receive more than ~~\$150.00~~ \$300.00 during any one month. This compensation shall be paid from the city school funds in the manner provided for paying out of such city school funds."

~~(d) Any city or town which has had the general administration~~

~~and supervision of the public schools and educational interests of such city or town vested in a city board of education for a period of 20 years or more prior to August 15, 1991, may, if it elects, and except as may be provided by law, continue to have general administration and supervision of the public schools and educational interest under a local board of education regardless of any past or future federal census.~~

Section 12. Section 16-11-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-11-1.

(a) A "city" within the meaning of this title shall include all incorporated municipalities of ~~5,000~~ 15,000 or more inhabitants, according to the last or any succeeding federal census, or according to the last or any succeeding census taken under the provisions of Sections 11-47-90 through 11-47-95.

(b) Nothing in subsection (a) hereof shall affect the existence of any city board of education as established as of the effective date of this Act. Nothing in this section shall affect the existence of any city which has established a city board of education or has created a city system as of March 1, 1992, even if that city board does not yet have a city superintendent of education."

Section 13. Section 16-13-199, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-13-199.

(a) When a municipality under the jurisdiction of a county board of education attains a population of ~~5,000~~ 15,000 or more, according to the last decennial or any subsequent federal census, the ~~schools of the municipality may remain under the control of the county board by agreement between that board and the city council of the municipality, which agreement shall be expressed in resolutions adopted by and spread upon the minutes of the two authorities governing body of the municipality may elect to establish an independent board of education by duly adopted municipal ordinance. If the governing body of the municipality does not enter into such an agreement, so elects,~~ the control of the school or schools of the territory within the municipality shall be vested in a city board of education, and thereafter the district school tax collected in the city shall be paid over to the custodian of city school funds, and the district school tax collected in the contiguous territory shall be paid over to the custodian of county school funds; provided, that so much of the proceeds of the special school tax collected in the original school tax district as may be required for the retirement of outstanding warrants

issued against such tax, including the interest thereon, shall be paid over to the proper official or authority to be used for such purpose.

(b) Nothing in subsection (a) hereof shall affect the existence of any city board of education established as of the effective date of this Act."

Section 14. Section 16-11-3, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-11-3.

Annually at the regular meetings of the city council or commission in April, the said council or commission shall elect a member or members of the board of education to succeed those whose term or terms of office expire that year. The terms of office of members of ~~the~~ appointed city board of education shall be five years, and the term of one member shall expire annually. In the event of a vacancy in the membership of the city board of education by resignation or otherwise, the fact shall be reported to the city council or commission by the said board, and the said council or commission shall elect a person to fill such a vacancy for the unexpired term. Before exercising any authority or performing any duties as a member of the city board of education, each member thereof shall qualify by taking and subscribing to the oath of office prescribed by Article XVI of the state constitution, the certificate whereof shall be filed in the office of the judge of probate of the county."

Section 15. Section 16-11-17, Code of Alabama, 1975, relating to salaries and dismissal of employees and salaries is hereby repealed.

Section 16.

(a) The city board of education shall appoint, upon the written recommendation of the city superintendent, all principals, teachers, clerical and professional assistants authorized by the board. The city board may suspend or dismiss for immorality, misconduct of office, insubordination, incompetency or willful neglect of duty, failure to perform duties in a satisfactory manner, or whenever, in the opinion of the board, the best interests of the school system require it, assistant superintendents, principals, teachers or any other employees or appointees of the board, subject to the provisions of Sections 29 and 30 of this act.

(b) The superintendent shall have the right to suspend any em-

ployee whether tenured or nontenured without pay for a period not to exceed ten working days per school year. To initiate such suspension, the superintendent must provide the employee written notice of the reasons for the suspension. The employee shall have three working days to notify the superintendent in writing why the proposed suspension should not occur and shall have the right within that time period to personally appear, with or without a representative, before the superintendent. If the superintendent thereafter suspends the employee, the employee shall have the right to file a written appeal of the suspension to the employing board within three working days, which appeal shall stay the suspension pending final review and determination by the employing board. The board's decision shall be final, subject to such judicial review as may be otherwise provided by law.

(c) Nothing in this section shall be construed as preventing the right to suspend pending a hearing on a proposed contract cancellation; provided, however, that in cases involving moral turpitude, an employee may be suspended without pay in accordance with due process of law."

Section 17. Section 16-12-1, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-12-1.

The city board of education shall appoint a city superintendent of schools for a term of from two to four years to hold office at the pleasure of the board which appointment may be terminated during said term for good cause. The city superintendent of schools shall receive such compensation and other allowances as the city board of education shall direct. The city board of education may remove the city superintendent of schools for incompetency, immorality, misconduct in office, willful neglect of duty or when, in the opinion of the board, the best interests of the schools require it."

Section 18. Section 16-23-14, Code of Alabama, 1975, is hereby amended to read as follows:

"Section 16-23-14.

For the purpose of setting up standards for the preparation of teachers, supervisors and administrative employees for service in the public schools, the State Board of Education shall authorize and prescribe minimum requirements on courses of study, organization, qualifications of instructors, buildings and equipment and sanitary conditions, and it shall be the duty of the State Superintendent of Educa-

tion or his professional assistants to visit institutions engaged in teacher-training, hold conferences with the teachers and officials of such institutions, explain the requirements of the State Board of Education relating to the preparation of teachers, look into the character of work being done and perform such other services as may be deemed advisable for the improvement of the training provided for prospective teachers of the public schools of the state. Furthermore, the State Board of Education shall authorize and prescribe minimum standards whereby each institution engaged in teacher-training shall be required to provide remediation to its teacher-training graduates who demonstrate a need, as reflected by a performance-based evaluation, for remedial training or development in his or her first three years of employment as a teacher. The teacher-training institution shall provide this remediation at no cost to its teacher-training graduates."

Section 19. Repeal of Alabama Tenure Law.

Sections 16-24-1 through 16-24-38, Code of Alabama, 1975, are hereby repealed.

Section 20. General Definitions.

(a) The term "teacher" is deemed to mean and include employees of county and city boards of education, the Alabama Institute for Deaf and Blind, Department of Youth Services School District, the Alabama School of Fine Arts and the Alabama School of Mathematics and Science who possess a certificate issued by the teacher certifying authority of the State of Alabama and who are employed in a position for which a certificate is required by the Alabama State Department of Education or Board of Education. Personnel employed on a full-time basis, as defined by the rules and regulations of the State Board of Education, at two-year educational institutions under the control and auspices of the State Board of Education who are employed in academic or technical education, including instructors, counselors, librarians, business managers, deans, assistant deans, and associate deans, are for purposes of this act deemed to be teachers and covered under the provisions herein; however, personnel employed at two-year colleges and the Alabama School of Mathematics and Science shall not be required to obtain a teaching certificate in order to maintain either their teaching position or tenure under the provisions of this act. Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, presidents, vice-presidents, provosts, or other chief administrative officers of employing boards shall not be deemed teachers within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

(b) "Employing board" shall be defined as a city or county board of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Board of Education of the Alabama Department of Youth Services School District; the Board of Directors of the Alabama High School of Mathematics and Science; and the Board of Directors of the Alabama School of Fine Arts; with regard to two-year educational institutions under the control and auspices of the State Board of Education, the term "employing board" when used in the context of the employing entity shall be defined as the respective educational institution, and when used in the context of the entity which is responsible for the final decision in a personnel action or proposed personnel action subject to the hearing procedure described in this act shall be the Chancellor of the Alabama Department of Postsecondary Education. The State Board of Education shall adopt such rules, regulations, and policies as may be necessary and appropriate to define the respective authority, duties, and responsibilities of the state's two-year educational institutions and the Chancellor regarding their respective roles as the employing board.

(c) "Superintendent" shall mean the chief administrative officer of the employing board and shall also include the president of two-year colleges under the control and auspices of the State Board of Education, and other covered institutions.

(d) Persons employed in supervisory positions are deemed teachers for purposes of this act if they possess a certificate and occupy a position for which a certificate is required.

Section 21. Support employee - Defined.

The term "support employee" is deemed to mean and include those persons employed full-time by a county or city board of education, two-year educational institution under the control and auspices of the State Board of Education, the Alabama Institute for Deaf and Blind (not to include production workers at the Alabama Industries for the Blind), educational and correctional institutions under the control and auspices of the Alabama Department of Youth Services School District, the Alabama School of Mathematics and Science, the Alabama School of Fine Arts in a capacity other than "teacher," as that term is defined in Section 20 of this act, except for employees covered by the state merit system or other similar state statute; and provided further that a teacher who performs additional duties for which the teacher receives supplemental compensation shall not be deemed also to be a support employee as a result of performing those additional duties. Full-time employees are those employees whose duties require 20 or more hours in each normal working week or adults who are employed as bus

drivers. Notwithstanding the above, superintendents, assistant superintendents, principals, assistant principals, presidents, vice-presidents, provosts, or other chief administrative officers of employing boards shall not be deemed support employees within the meaning of this act and shall not be eligible for tenure under the terms of this act in that capacity.

Section 22. Criteria for determining teacher tenure.

(a) Any teacher who shall meet the following requirements shall attain tenure:

(1) Such teacher shall have served under contract with the same employing board or college for three consecutive, full school years and be renewed for employment for the next succeeding school year by such employing board or college. Any nontenured teacher shall be deemed offered re-employment for the succeeding school year at the same salary unless the employing board or college shall cause notice in writing to be given to said teacher on or before the last day of the school year in which the teacher is employed, and such teacher shall be presumed to have accepted such employment unless he shall notify the employing board or college in writing to the contrary on or before the fifteenth day of June. The employing board shall not cancel the contract of any tenured teacher, nor cause notice of nonemployment to be given to any tenured or nontenured teacher except by a vote of a majority of its members evidenced by the minute entries of said board made prior to or at the time of any such action.

(2) An instructor who has attained tenure and who is promoted to supervisor shall serve a probationary period of three consecutive years in that position. If the supervisor is not notified of nonrenewal in the position prior to the end of the third school year, the supervisor shall then attain tenure in that position. Such promotion shall in no way jeopardize the tenure of the supervisor as an instructor; and should the promoted instructor not be retained as supervisor, the supervisor's salary would be reduced to the salary paid instructors in accordance with the prevailing salary schedule of the employing board or college. Nonrenewal of a nontenured supervisor and reassignment to an instructor position shall not be deemed a contract cancellation or transfer for purposes of this act.

(3) The first year of employment shall count as a full year for purposes of attainment of tenure only if the teacher is employed by the employing board or college on or before the tenth working day of the second semester or quarter, whichever is applicable, and remains employed through the end of the school year.

(4) No partial teaching service during a school year, as school year is defined by the employing board of education or college, shall count toward the attainment of tenure, except as otherwise provided.

(5) As of the effective date of this act, any person who has attained tenure with an employing board or college shall retain such tenure.

(6) When two or more school systems or colleges are consolidated under one employing board or college, or when one or more schools are separated from a school system in order to become a part of or to constitute another school system, the tenure status of the employees involved in such changes is in no way jeopardized.

Section 23. Criteria for determining support tenure.

(a) A support employee who shall meet the following requirements shall attain tenure:

(1) An employee shall have been employed as a support employee by the same employing board or college for at least nine months in each of three consecutive school years.

(2) During the probationary period specified above, the employing board or college may terminate a support employee by furnishing said employee written notification thereof at least 15 calendar days prior to the effective date of termination.

(3) During the probationary period specified above, the superintendent shall evaluate annually the support employee.

(4) As of the effective date of this act, any nontenured employee who has attained tenure as a support employee with an employing board or college under prior laws shall retain tenure as a support employee in said system.

Section 24. Criteria for determining tenure of a principal.

(a) The term "principal" is deemed to mean and include only those persons certified by the State Board of Education who are employed by an employing board of education as the chief administrator of a school, including a vocational center.

(b) A principal shall attain tenure only in accordance with the provisions of this chapter.

(c) As of the effective date of this act, a principal who has attained tenure as a principal with an employing board under the prior tenure law shall retain tenure as a principal in said system. A tenured principal who has attained tenure previously with an employing board as an instructor or supervisor shall retain tenure as an instructor or supervisor in said system.

(d) As of the effective date of this act, no principal employed by an employing board of education shall attain tenure, except as otherwise provided herein.

(e) A tenured principal may elect nontenured employment with an employing board of education as follows:

(1) A tenured principal shall elect to be employed as a tenured or nontenured principal. The election shall be irrevocable.

(2) No later than two years from the effective date of this act, all currently employed principals shall elect to be employed either as a tenured or nontenured principal. The election is irrevocable, except as otherwise provided by this act.

(3) Employees hired as nontenured first-time principals shall be employed for a three-year period under a performance-based contract; provided, however, that an employee who has never been employed as a principal may, upon the mutual agreement of that employee and the employing board, be employed as a nontenured principal under a performance-based contract for a three-year period which contains a one-year probationary period. In such instances the remaining two years of the contract shall be contingent upon the receipt of a satisfactory first year evaluation. The performance-based contract shall be developed by the employing board of education, but shall utilize any criteria for the evaluation of a principal developed by the State Board of Education. A currently tenured principal who elects nontenured employment shall receive a \$5,000.00 annual salary increase, funded annually through the Alabama Special Educational Trust Fund and received by the principal as salary, based upon the salary schedule and methodology utilized by the employing board. For each contract year thereafter, the principal shall be entitled to a base salary which is \$5,000.00 more than the salary to which he would otherwise be entitled. The above salary increase shall be in addition to any pay raise granted by either the legislature or the local board of education. Said salary increase shall be considered for purposes of calculating teacher retirement and other benefits which are or may be provided by either the legislature or local board of education. Any currently tenured principal electing nontenured employment shall

retain as a part of his salary the \$5,000.00 salary increase regardless of the principal's subsequent employment with another employing board.

(4) The superintendent or designee shall evaluate annually the performance of a nontenured principal. For each year of satisfactory evaluation, the contract of a nontenured principal shall be automatically extended for one school year, as school year is defined by the county or city board of education. The local board, upon the recommendation of the superintendent, may at any time enter into a new three-year contract with a nontenured principal.

(5) In the event of an unsatisfactory evaluation, a conference shall be held with the nontenured principal and a plan of professional development shall be presented by the superintendent to the nontenured principal which specifies the area(s) of unsatisfactory performance and establishes a plan to correct the unsatisfactory performance. A nontenured principal shall complete the plan of professional development prior to the next evaluation. Within seven days of completion of the plan of development, a nontenured principal may request a re-evaluation. If the re-evaluation is satisfactory, then the contract of the nontenured principal shall be extended for one school year. If the results of the re-evaluation are unsatisfactory, then the nontenured principal shall be informed of the reason(s) for the unsatisfactory re-evaluation. In cases where the superintendent performs the initial evaluation, the review shall be performed by a local employee designated by the superintendent. A review of an evaluation shall be completed within 30 days of receipt of request for re-evaluation.

(6) If, within the three-year contract period, a nontenured principal received two consecutive annual unsatisfactory evaluations and the nontenured principal has completed all plans for professional development, then within seven days of receipt of the second unsatisfactory evaluation, the nontenured principal may file with the employing board an affidavit under oath which alleges facts that the second unsatisfactory evaluation was motivated by personal or political reasons. The investigation of such allegation shall be conducted by the employing board, unless the superintendent or principal objects, in which case the investigation shall be conducted by a person designated by the State Superintendent; provided further, that if the superintendent or principal objects, the investigation shall be conducted by a person designated by the Chairman of the Standards on Excellence Commission. If the investigation finds the allegation to be supported by clear and convincing evidence, then the local board shall designate a professionally qualified person who shall conduct a re-evaluation of the principal within 30 days. If the re-evaluation is unsatisfactory, then the principal may

again file an affidavit under oath with the previously identified designee alleging personal or political motivation. If the designated investigator again finds the allegations to be supported by clear and convincing evidence, then the second unsatisfactory evaluation shall be void and a final re-evaluation shall be conducted by the designated investigator. If the final re-evaluation is satisfactory, then the contract of the principal shall be extended for one year. Nothing in this subsection shall be construed to limit other reasons for dismissal of a nontenured principal which are otherwise provided by law.

(7) Any nontenured principal who has received an unsatisfactory annual evaluation and thereafter shall in two successive years receive satisfactory evaluations shall be deemed to have been restored to a three-year contract with his employing board.

(8) A nontenured principal may be transferred or dismissed at any time during the term of the principal's contract by being afforded the hearing rights and procedures outlined herein for any other tenured employee.

(f) All current tenured principals not electing to be employed as nontenured principals shall be deemed to have elected to remain as tenured principals. A tenured principal shall have the opportunity to elect to be employed as a nontenured principal as provided in this act.

(g) For three years after the effective date of this act, an employing board, for periods of time not to exceed 90 days, may allow a tenured principal to elect to change his employment to that of a nontenured principal. The election is irrevocable. Within the three-year period above, the employing board may allow for multiple opportunities for a tenured principal to change his employment to that of a nontenured principal.

(h) As of the effective date of this chapter, an employing board shall not reduce the salary schedule of a principal below the 1992-93 salary schedule level.

Section 25. Duties and Evaluation of Principal.

(a) A principal shall supervise the daily operation and management of personnel, finances, facilities, and other matters of the school or campus for which he is responsible. A principal shall assume the administrative responsibility and instructional leadership, as directed by the superintendent, consistent with the employing board policy, for the planning, management, operation, and evaluation of the education

program of the school or campus under the principal's responsibility.

(b) A principal shall make a written recommendation to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school or campus under his responsibility. If a recommendation of a principal is rejected, then the principal shall submit a second recommendation. The superintendent shall have final authority for personnel assignments within the school system.

(c) A principal shall observe all rules, policies, and procedures relative to the operation of the public schools as established by applicable laws, rules, and standards of both the State Board of Education and the employing school board.

(d) A principal shall perform all other duties assigned by the superintendent, consistent with the employing board's policy.

Section 26. Contract of employment effective until superseded or cancelled.

The contract of employment of any tenured employee shall remain in full force and effect unless superseded by a new contract signed by both parties, or cancelled as provided in Section 29 of this act.

Section 27. Change of compensation for succeeding year.

The salary or compensation of any tenured employee may be changed for any succeeding year to accord with a general salary schedule adopted by the employing board of education; provided, that no salary schedule shall operate to compensate teachers in less sums than the sums contained in a minimum salary schedule which may be adopted by the State Board of Education for teachers in the public schools or colleges of the state.

Section 28. Transfer of tenured and nontenured employees.

(a) A superintendent may transfer or reassign any nontenured teacher or nontenured support employee at any time, and the transfer shall be effective immediately.

(b) A superintendent may transfer any tenured teacher from one position, school, or grade to another by giving written notice of such transfer, and the reasons therefor, at any time not later than 30 calendar days prior to the commencement of the school year for which the trans-

fer is to be effective. For purposes of this subsection, the school year shall commence on the first day of attendance by students. The transfer shall be effective at the commencement of the school year. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the teacher proves that the transfer was arbitrary, capricious, or based upon personal or political reasons on behalf of the superintendent or employing board. No such transfer shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(c) In addition to the transfer procedure specified in subsection (b) above, a superintendent may transfer any tenured teacher from one position, school, or grade to another by giving written notice of such transfer and the reasons therefor at any time not later than ten working days after the commencement of the school year for which the transfer is to be effective. The ten-day period shall begin on the first day of attendance by students. The superintendent shall, before initiating any transfer under this subsection, publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred teacher. The publication shall be made for a period of not fewer than five working days. If school is in session, such publication shall be made at all relevant schools and other relevant school work sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to reduce the number of teacher units in a school or school work site because of student enrollment, the notice need be posted only at the school or school work site from which a teacher is to be transferred. If school is not in session, the publication shall be made by notice posted at the office of the superintendent. Any teacher may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured teacher involuntarily. Where the reason for the transfer is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall not transfer a tenured teacher if there is employed in the same school a nontenured teacher whose transfer would reasonably accomplish the superintendent's purpose. Upon expiration of the five-day publication period, but in no event later than the tenth working day as herein provided, the superintendent may effect the transfer of a tenured teacher by giving the required notice. The transfer shall be effective at the commencement of

the school year or, if the notice is given after commencement of the school year, upon receipt by the teacher of the notice. A tenured teacher affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. In proceedings contesting a transfer under this subsection, the superintendent shall bear the burden of proving that there was a sound educational or programmatic reason for the transfer. If the reason for the transfer under this subsection is to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the circumstances necessitating the transfer were not known to the superintendent in time to initiate the transfer at least 30 days before the commencement of school. If the transfer under this subsection is for a reason other than to adjust the number or allocation of teachers because of student enrollment, the superintendent shall also bear the burden of proving that the superintendent could not reasonably have known or anticipated the circumstances necessitating the transfer in time to initiate the transfer at least 30 days before the commencement of school. No transfer under this subsection shall result in loss of tenure or violation of contract and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations.

(d) Any tenured teacher transferred under subsection (c) shall be entitled, for a period of two years commencing with the effective date of the transfer, to return to the school from which the teacher was transferred if a vacancy occurs in the field in which the teacher was teaching at the time of the transfer, and the employing board intends to fill such vacancy. If the employing board intends to fill such vacancy, the superintendent shall notify the transferred teacher of the vacancy and, if otherwise qualified at the time for the position, the teacher shall be entitled to return to such position.

(e) A superintendent may transfer a tenured support employee at any time from one job classification, school, or work site to another by giving written notice of such transfer, and the reasons therefor. For purposes of this subsection, "transfer" does not include a reassignment which would cause the employee to work at a facility or site which is located on the same campus or contiguous parcel of real estate as the school or work site at which the employee was previously working. The support employee's "school or work site" shall include all facilities or grounds of the employing board at which the employee works or may be reasonably expected to work as part of the employee's regular job responsibilities. Before initiating an involuntary transfer of a tenured

support employee, the superintendent shall publish notice of the proposed transfer and a description of the vacancy which will be filled by the transferred employee. The publication shall be made for a period of not fewer than five working days. Such publication shall be made at all relevant work sites, and may be by posted notice or by such other means ordinarily used by the superintendent to disseminate information generally to employees; provided, however, if the reason for the transfer is to decrease the number of support employees at a school or work site, the notice need be posted only at the school or work site from which a support employee is to be transferred. Any support employee may volunteer to accept the proposed transfer, and the superintendent shall give due consideration to any such volunteer before transferring a tenured support employee involuntarily. Upon expiration of the five-day publication period the superintendent may effect the transfer of a tenured support employee by giving the required notice. The transfer of a tenured support employee shall take effect immediately upon notification by the superintendent, except that the support employee may request for hardship reasons to delay the transfer for not more than five working days, which request shall not be unreasonably denied. A tenured support employee affected by such a transfer may request a hearing before a hearing officer as provided in Section 30 of this act. The superintendent's decision shall be presumed correct, and shall not be disturbed unless the support employee proves that the transfer was arbitrary, capricious, or based upon personal or political reasons on behalf of the superintendent or employing board. If the superintendent declined to accept any volunteer for the transfer and the support employee contests the transfer on that basis, the support employee shall bear the burden of proving that the superintendent's decision was not reasonable under the circumstances. No transfer under this subsection shall result in loss of tenure or violation of contract, and no such transfer shall be made for political or personal reasons on behalf of the superintendent or the employing board. Except as herein provided, the process for resolving contested transfers under this subsection shall be the same as that used for contested contract cancellations. Nothing herein shall prohibit the superintendent from making a temporary transfer of a tenured support employee, for a period not to exceed ten working days, when the superintendent determines that exigent circumstances require such action.

(f) If a tenured teacher or tenured support employee successfully contests a transfer, such employee shall be entitled to resume his former position at the following times: (1) at the time of the employing board's final decision disallowing the transfer, or (2) at the time of a decision of the Alabama Court of Civil Appeals reversing the action of the employing board if the employing board rejected the recommendation of the hearing

officer and permitted the transfer to remain in effect.

Section 29. Cancellation of contract - grounds.

Cancellation of an employment contract of a tenured employee may be made for failure to perform duties in a satisfactory manner, incompetency, insubordination, neglect of duty, immorality, justifiable decrease in the number of positions, or other good and just cause. Cancellation shall not occur for political or personal reasons. No cancellation shall be initiated against any tenured employee after the expiration of three years from the date such cause became known to the employing board. Provided, however, that evidence of events and circumstances predating the three-year period may be considered if determined by the hearing officer to be relevant.

Section 30. Hearing Procedure.

(a) The following hearing procedure shall be followed for all transfers or cancellations of contracts of tenured employees. No action shall lie for the recovery of damages for the breach of any employment contract of an employee of an employing board.

(b) The superintendent shall initiate all transfers and cancellations of contracts of tenured employees by giving written notice of the proposed personnel action. The notice shall contain:

(1) a statement of the proposed personnel action and the statutory authority for such action;

(2) a statement of the right to request a hearing and a brief outline of the hearing process and rights of the employee; and

(3) a detailed statement of the reasons for the proposed action.

(c) Service of Notice. The notice may be served in either of the following ways:

(1) personal service, with a copy mailed to the last known address of the employee, or

(2) certified mail, return receipt requested mailed to the last known address of the employee.

(d) Request for Hearing. An employee may request a hearing to contest a proposed action. The request shall be in writing, filed with the

superintendent, and received by the superintendent within seven calendar days of the date of receipt of notice of the proposed action. Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the proposed personnel action to become final and effective immediately upon approval by the employing board.

(c) Selection of hearing officer.

(1) If a hearing is requested timely, a hearing officer shall be appointed from a roster of hearing officers provided by the American Arbitration Association in accordance with their expedited procedures. All hearing officers shall meet the following requirements:

(i) be experienced and knowledgeable in education and personnel matters or attend training administered jointly by the Alabama Education Association and the Alabama Association of School Boards; and

(ii) shall be a resident of a member state of the Southern Regional Education Board.

(2) It shall be the duty of the superintendent to notify the American Arbitration Association that a hearing has been requested and to whom the rosters should be mailed. Within seven calendar days of receipt of a request for a hearing, the names of seven potential hearing officers shall be furnished by the American Arbitration Association to the parties and any attorney who has filed an appearance on the part of a party. If a party has had an attorney file an appearance on their behalf, service of the list of potential hearing officers on that attorney shall be deemed as service on the party. Each party shall within seven calendar days strike no more than two names from the list and notify the American Arbitration Association of the strike(s). The strikes shall be made independently by the parties without reference to any strikes that the other party may choose to make. At the conclusion of the seven calendar day striking period, the American Arbitration Association shall designate a hearing officer from the names that were not eliminated by strikes of the parties.

(f) Conduct of hearing, authority of hearing officer.

(1) The hearing shall commence within 14 calendar days of selection of the hearing officer. The hearing officer shall establish a time and place for the hearing, which shall be held in a suitable site provided by the employing board.

(2) In the conduct of a hearing, the hearing officer shall have authority to:

- (i) maintain order;
- (ii) cause a record of the proceedings to be made;
- (iii) establish reasonable time limits for the conduct of the proceedings;
- (iv) rule on the admissibility of evidence, including the number of witnesses to testify for either party;

(v) issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence. Upon request, the hearing officer shall issue subpoenas for witnesses to testify either in support of the charges or on behalf of the employee, and such witnesses shall be entitled to receive the same mileage and per diem as witnesses called in civil cases in the circuit court of the county where the hearing is held, the same to be paid out of school funds; provided, that the local board shall not be accountable for the witness fees of more than ten of the witnesses subpoenaed by the employee. In case a person refuses to obey such subpoena, the hearing officer may invoke the aid of the circuit court in order that the testimony or evidence be produced; and, upon proper showing, such court shall issue a subpoena or order requiring such person to appear before the hearing officer and produce evidence and give testimony relating to the matter at issue; a person failing to obey the court's subpoena or order shall be punishable by the court as for contempt;

(vi) if necessary, hold a prehearing conference, to be conducted by telephone if appropriate, or issue an order to clarify the matter(s) in dispute; establish the order of presentation; allow and establish time limits for the exchange of exhibits and names of witnesses; and

(vii) enter an order on any other matter which would facilitate the conduct of the hearing, including the suspension, for good cause shown, of any time period established herein.

(3) At the option of the employee, the hearing may be closed to the public; provided, that any board member may attend all or part of a hearing. Attendance in the hearing as an observer disqualifies the board member as a witness at the hearing.

(4) Record of Proceedings.

(i) It shall be the responsibility of the superintendent to maintain the record of the hearing which shall include:

1. the notice of proposed action;
2. the request for a hearing;
3. all evidence admitted during the hearing;
4. a transcript of the proceedings;
5. a statement of all matters officially noticed;
6. all questions and offers of proof, objections, and rulings thereon;
7. the written recommendation of the hearing officer; and
8. the final decision of the employing board.

(ii) The proceedings shall be recorded by a qualified court reporter. The cost of transcription shall be paid by the employing board. The parties shall ensure that the transcript is completed no later than 21 calendar days after conclusion of the hearing.

(5) Costs and expenses. The parties shall bear their own costs and expenses. The parties shall bear equally all costs attributable to the hearing officer.

(6) Expedited Proceedings. In order to expedite the hearing process contemplated by this act, all communications except the initial notice to the employee of the proposed personnel action may be by facsimile transmission or other means of expedited delivery.

(7) Settlement.

(i) Informal dispositions may be made of any matter by stipulation, agreed settlement, consent order, or by another method agreed upon by the parties in writing. An informal disposition shall be final and binding upon the parties.

(ii) At any time after submission of a request for a hearing, an employee may, in writing, withdraw his request for a hearing. Upon withdrawal, the proposed personnel action shall become final immediately upon approval by the employing board.

(8) Report of Hearing Officer; Employing Board Action.

(i) Within seven calendar days of conclusion of the hearing, the

hearing officer shall submit a written report to the employee and the employing board. The report shall include a brief statement of the nature and course of the proceedings; a statement of the reason(s) for the proposed personnel action, findings of fact, and a recommended decision on the proposed personnel action. If the employee contends that procedural errors have occurred in the proceedings which have substantially prejudiced his rights, the hearing officer's report shall include appropriate findings of fact relating to that contention, and a recommended disposition.

(ii) Within 14 calendar days of receipt of the record of proceedings compiled to that point, the employing board shall render its final decision. The employing board shall not be bound by the proposed decision submitted by the hearing officer; however, the findings of fact of the hearing officer shall be accorded a presumption of correctness. The final decision of the board shall be in writing. If the board determines that facts found by the hearing officer are against the great weight of the evidence and clearly erroneous, the board may reject those findings, in which case it shall state in writing its own findings of fact. If the employing board does not accept the hearing officer's recommendation on the proposed personnel action, the employing board shall render its independent decision in writing. If the board chooses to accept the recommendation of the hearing officer, it shall so state in writing. Nothing herein shall preclude the employing board from ordering a disposition other than that recommended by the superintendent.

(iii) The final decision of the employing board shall be served upon the employee in the same manner as service of a notice of a proposed personnel action. Except as otherwise provided in this act, the employing board's decision shall be final as of the day of its adoption.

(iv) In contract cancellation proceedings, the employee shall be removed from the payroll and the employee's salary cease at the time of the employing board's final decision cancelling the employee's contract. If the employing board accepts the recommendation of the hearing officer, but is later reversed, the employee shall be entitled to reinstatement and back pay. If the employing board rejects the recommendation of the hearing officer, and is later reversed, the employee shall be entitled to reinstatement, back pay, and interest at 9 percent per annum thereon.

Section 31. Appeal of Final Decision of Employing Board.

(a) A tenured employee may appeal the final decision of an em-

playing board only to the Alabama Court of Civil Appeals. The appeal shall be filed within 14 calendar days of the employing board's final decision. The appeal will be perfected by filing a written notice of appeal with the superintendent, who shall transmit the notice and the record of proceedings to the Clerk of the Alabama Court of Civil Appeals within 14 calendar days of receipt of the notice of appeal. Failure by the employee to file a timely notice of appeal shall result in the employing board's decision becoming final, and failure by the superintendent to transmit timely the notice and record of proceedings shall result in a decision in favor of the employee.

(b) On appeal, the findings of fact of the hearing officer shall be entitled to a presumption of correctness. If the employing board has rejected some or all of the hearing officer's proposed findings, and has substituted its own findings, the findings by the employing board are not entitled to a presumption of correctness, but the appellate court shall consider the employing board's findings in determining whether the findings of fact of the hearing officer are clearly erroneous. The employing board's decision on the proposed personnel action will be affirmed unless the decision (1) does not have substantial support in the facts as determined by the hearing officer, or, if the hearing officer's findings are determined to be clearly erroneous in the facts established in the record as a whole; or, (2) is in violation of constitutional or statutory provisions; or, (3) is in excess of the statutory authority of the employing board; or, (4) is in violation of any pertinent, duly adopted policy of the employing board which violation worked to the substantial prejudice of the employee; or, (5) is made upon irregular or unlawful procedure which worked to the substantial prejudice of the employee; or, (6) is unreasonable, arbitrary, capricious, or characterized by an abuse of discretion; or, (7) would result in a disposition of the personnel matter which would be plainly unjust.

Section 32. Cancellation of Contract by Employee.

No employee, whether or not tenured, shall be permitted to cancel his contract during the school year for which said contract is in effect, nor for a period of 45 days prior to the beginning of such school year, unless such cancellation is mutually agreed upon; or unless such employee has been notified of a transfer fewer than 30 days prior to the first day of attendance by students. Any teacher cancelling his or her contract in any other manner than in this section shall be deemed guilty of unprofessional conduct, and the state superintendent of education is hereby authorized to revoke or suspend the certificate of said teacher.

Section 33. Effect of Leave of Absence on Tenure.

(a) Leave of absence for a period of one year for good cause may be granted to a tenured employee by the employing board of education without the impairment of the tenure status of an employee; provided, that for valid reasons the board may extend the leave of absence for one additional year; and provided further, that upon the request of an employee who has heretofore or who shall hereafter enter the military service of the United States at a time when there is an existing state of war between the United States of America and any other country, a leave of absence shall be granted to such employee for the duration of the war and until the beginning of the school year next succeeding the date on which said employee is released from said military service; and, on or before such date, said employee must give written notice to the employing board of education whether or not he desires to be reemployed by said board. If such notice is not received by the employing board of education, or if the employee notifies the employing board on or before the date specified above that he does not desire re-employment, the employing board has no further responsibility with respect to re-employment of said employee. The term "military service of the United States," as used herein, shall include the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps, the Coast Guard, the Army Specialist Corps, the Women's Army Auxiliary Corps, the Women's Volunteer Reserve of the United States Navy, those persons commissioned in the public health service, or those persons entering into the service of any similar organization heretofore or hereafter formed by the government of the United States.

(b) A nontenured employee entering the military service of the United States who has accumulated one or more school years of experience with an employing board of education immediately prior to entering military service shall be given credit for such experience with the employing board of education in attaining tenure, if such employee is re-employed by said board of education within one year after the release of that employee from military service.

Section 34. Repeal of Fair Dismissal Act.

All provisions of Alabama Code Sections 36-26-100 through 36-26-108, Code of Alabama, 1975, are hereby repealed.

Section 35. Abolition of Boards of School Trustees.

(a) Section 16-10-1 through 16-10-11, Code of Alabama, 1975, are hereby repealed.

(b) Any board of school trustees currently in existence is hereby

abolished. All books, records, and funds maintained or held by any board of school trustees currently in existence shall be delivered without delay to the principal of the school.

Section 36. All cases involving tenure or continuing service status under Title 16, Chapter 24, Code of Alabama, 1975, as amended (Teacher Tenure Law) and Title 36, Chapter 26, Code of Alabama, 1975, (Fair Dismissal Act), in which notice of proposed cancellation of contract or transfer was served on the affected employee prior to the effective date of this act shall proceed under the laws, procedures and rules in said statutes as if said statutes remained in effect. By written agreement, which shall be included in the record of proceedings, the tenured employee and the superintendent may elect after the effective date of this Act to proceed instead under the provisions of this Act.

Section 37. Class 1 Municipalities - Elected City Boards.

(a) The city board of education of any Class 1 municipality shall consist of nine members who shall be elected from the nine single-member districts established for the election of members of the city governing body by a majority of the electors residing in each district.

(b) Each board member shall have been a resident of the district from which elected for at least one year at the time of election and shall continue to be a resident during the term of office.

(c) The method and dates for qualifying as a candidate for the city board of education and the conduct of elections shall be the same as for the election of the city council, including the provisions for second elections when no candidate obtains a majority of votes in the first election. The initial elections held under this section shall be set by the city council of the Class 1 municipality at the first city council election held after 90 days following final approval of this act by the United States Department of Justice.

(d) Members of the board of education shall take office immediately following certification of their elections. Terms of office shall be for four years. Members may succeed themselves once, and after one term may seek office again.

(e) Vacancies occurring on the board shall be filled by appointment of a resident of the district from which the vacancy occurred by a majority of the remaining members of the board. At the next municipal election, the position shall be filled for the remainder of the term. If a member moves outside the district, the position shall be vacant and shall

be filled as provided for vacancies. The changing of district lines by reason of redistricting to conform to the last Federal Decennial Census shall not be deemed to cause a vacancy during a term of office.

(f) The provisions of this section are supplemental and shall be construed in pari materia with other laws applicable to city boards of education and any Class 1 city board of education; however, those laws or parts of laws in direct conflict or inconsistent are superseded to the extent that they may be constitutionally superseded by this section.

Section 38. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 39. All laws or parts of laws that conflict with this act are hereby repealed.

Section 40. This act shall be effective for all fiscal years or periods beginning after September 30, 1992, if the constitutional amendment proposed by House Bill 252 of the 1992 regular session has been ratified by the people and proclaimed by the Governor as required by law.

On motion of Senator Dial, the Rules were suspended and further consideration of the Bill, HB 221, and pending substitute, was postponed subject to the call of the Chair.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

By Senator Parsons:

S. 274. To provide for a requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller.

Also:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the pur-

pose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 287. Relating to employment security programs of the Department of Industrial Relations so as to provide for an assessment of 0.06% against wages paid by certain employers beginning April 1, 1992 and ending March 31, 1997; to provide for the collection, appropriation, and disbursement of such assessment; and to provide for the establishment of the "Employment Security Enhancement Fund" in the state treasury; to amend sections 25-4-31, 25-4-54, and 25-4-143, Code of Alabama 1975, so as to provide for a reduction of 0.06% in the rates of unemployment compensation contributions of certain employers effective April 1, 1992, and to provide for the transfer of such revenues from the clearing account into the separate special fund in the state treasury; to amend Section 25-4-32, Code of Alabama 1975, so as to make indefinite the authority to requisition certain funds credited to the state's trust fund account in the United States treasury pursuant to Section 903 of the Social Security Act in accordance with a recent congressional amendment; to amend Section 25-4-54, Code of Alabama 1975, so as to make permanent the provisions for relief to certain employers affected by a declared natural disaster; to clarify the procedure for determining shared costs; and to provide for retroactive effect.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after

its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 105. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED EDUCATIONAL LEADERSHIP.

GREG PAPPAS,
Clerk.

FURTHER CONSIDERATION OF HB 221

The Senate proceeded to further consideration of the Bill, HB 221. The question was on the Bennett substitute No. 2.

Senator Smith (J) offered the following amendment to the substitute for the Bill, HB 221, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 221

Amend the substitute for HB 221 on page 15, lines 9 and 24 by striking the figure "15,000" and by substituting in lieu thereof the figure "14,000".

Which was adopted.

Senator Ghee offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill 221, on page 45, line 27 add the following new section, and renumber all remaining sections accordingly:

"Section 38. Rename the Alabama Special Educational Trust Fund.

"The name of the 'Alabama Special Educational Trust Fund' is

hereby changed to the "Education Trust Fund." All references to the "Alabama Special Educational Trust Fund" or the "Alabama Special Education Trust Fund" contained in the Code of Alabama are hereby changed to the "Education Trust Fund." All other laws, rules, regulations, and legal references of any and all kinds to the "Alabama Special Educational Trust Fund" or the "Alabama Special Education Trust Fund" shall henceforth be changed to the "Education Trust Fund."

Further amend the title of House Bill 221 on page 5, line 8, add the following after the word "terms;":

and to rename the Alabama Special Educational Trust Fund to the "Education Trust Fund,"

Which was adopted.

Senator Corbett offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill 221, on page 16, line 13, by adding the following new sentence:

"After the effective date of this act, newly created city school systems shall compensate the county school system from which the city system was created for the costs of all property which is to be transferred to the city system. The costs of the property shall be mutually agreed upon by both county and city systems before the transfer of property is to become final."

Which was adopted.

Senator Windom offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill 221 on page 19, lines 23 and 24 as follows:

By deleting the following phrase: "The Alabama School of Fine Arts, and the Alabama School of Mathematics and Science"

Further amend the substitute, as amended, for House Bill 221 on

page 19 line 36 by deleting the word "and"

Further amend the substitute, as amended, for House Bill 221 on page 20 line 5 by deleting "the Alabama School of Mathematics and Science".

Further amend the substitute, as amended, for House Bill 221 on page 20, lines 19, and 20, by deleting the following phrase: "the Board of Directors of the Alabama High School of Mathematics and Science; and the Board of Directors of the Alabama School of Fine Arts;"

Further amend the substitute, as amended, for House Bill 221 on page 21, lines 20, 21 and 22 by deleting the following phrase: "the Alabama School of Mathematics and Science, the Alabama School of Fine Arts".

Which was adopted.

Senator Denton offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill 221 on page 9, line 33 by striking the term "four" and by inserting in lieu thereof the term "six".

Senator Bennett moved that said amendment be laid on the table, which motion was lost.

Yeas 10 Nays 13

Yeas:

Senators:

Amari, Bailey, Bennett, Campbell, Corbett, Dixon, Horn, Langford, Waggoner, and Windom

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Nays:

Senators:

Bedsole, Bolling, deGraffenried, Denton, Dial, Ellis, Floyd, Hilliard, Lipscomb, Little, Mitchem, Owens, and Sanders

-13

And said amendment was then adopted.

Senator Bailey offered the following amendment to the substitute,

as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill 221 by inserting the following on page 24 line 33 after the period

"A principal selecting nontenured status shall be given a three (3) year contract."

Which was adopted.

Senator Bailey then offered the following amendment No. 2 to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute for HB 221, as amended, by deleting Section 2 beginning on line 26, page 22

renumber accordingly

after line 26, page 23, add a new section 23 as follows and renumber preceding sections accordingly:

Section 23. Criteria for determining tenure of a supervisor.

(a)

(b) A supervisor shall attain tenure only in accordance with the provisions of this chapter.

(c) As of the effective date of this act, a supervisor who has attained tenure as a supervisor with an employing board under the prior tenure law shall retain tenure as a supervisor in said system. A tenured supervisor who has attained tenure previously with an employing board as an instructor or supervisor shall retain tenure as an instructor or supervisor in said system.

(d) As of the effective date of this act, no supervisor employed by an employing board of education shall attain tenure, except as otherwise provided herein.

(e) A tenured supervisor may elect nontenured employment with

an employing board of education as follows:

(1) A tenured supervisor shall elect to be employed as a tenured or nontenured supervisor. The election shall be irrevocable. A supervisor selecting a nontenured status shall be given a three year contract.

(2) No later than two years from the effective date of this act, all currently employed supervisors shall elect to be employed either as a tenured or nontenured supervisor. The election is irrevocable, except as otherwise provided by this act.

(3) Employees hired as nontenured first-time supervisors shall be employed for a three-year period under a performance-based contract; provided, however, that an employee who has never been employed as a supervisor may, upon the mutual agreement of that employee and the employing board, be employed as a nontenured supervisor under a performance-based contract for a three-year period which contains a one-year probationary period. In such instances the remaining two years of the contract shall be contingent upon the receipt of a satisfactory first year evaluation. The performance-based contract shall be developed by the employing board of education, but shall utilize any criteria for the evaluation of a supervisor developed by the State Board of Education. A currently tenured supervisor who elects nontenured employment shall receive a \$5,000.00 annual salary increase, funded annually through the Alabama Special Educational Trust Fund and received by the supervisor as salary, based upon the salary schedule and methodology utilized by the employing board. For each contract year thereafter, the supervisor shall be entitled to a base salary which is \$5,000.00 more than the salary to which he would otherwise be entitled. The above salary increase shall be in addition to any pay raise granted by either the legislature or the local board of education. Said salary increase shall be considered for purposes of calculating teacher retirement and other benefits which are or may be provided by either the legislature or local board of education. Any currently tenured supervisor electing nontenured employment shall retain as a part of his salary the \$5,000.00 salary increase regardless of the supervisor's subsequent employment with another employing board.

(4) The superintendent or designee shall evaluate annually the performance of a nontenured supervisor. For each year of satisfactory evaluation, the contract of a nontenured supervisor shall be automatically extended for one school year, as school year is defined by the county or city board of education. The local board, upon the recommendation of the superintendent, may at any time enter into a new three-year contract with a nontenured supervisor.

(5) In the event of an unsatisfactory evaluation, a conference shall be held with the nontenured supervisor and a plan of professional development shall be presented by the superintendent to the nontenured supervisor which specifies the area(s) of unsatisfactory performance and establishes a plan to correct the unsatisfactory performance. A nontenured supervisor shall complete the plan of professional development prior to the next evaluation. Within seven days of completion of the plan of development, a nontenured supervisor may request a re-evaluation. If the re-evaluation is satisfactory, then the contract of the nontenured supervisor shall be extended for one school year. If the results of the re-evaluation are unsatisfactory, then the nontenured supervisor shall be informed of the reason(s) for the unsatisfactory re-evaluation. In cases where the superintendent performs the initial evaluation, the review shall be performed by a local employee designated by the superintendent. A review of an evaluation shall be completed within thirty days of receipt of request for re-evaluation.

(6) If, within the three-year contract period, a nontenured supervisor received two consecutive annual unsatisfactory evaluations and the nontenured supervisor has completed all plans for professional development, then within seven days of receipt of the second unsatisfactory evaluation, the nontenured supervisor may file with the employing board an affidavit under oath which alleges facts that the second unsatisfactory evaluation was motivated by personal or political reasons. The investigation of such allegation shall be conducted by the employing board, unless the superintendent or principal objects, in which case the investigation shall be conducted by a person designated by the State Superintendent; provided further, that if the superintendent or principal objects, the investigation shall be conducted by a person designated by the Chairman of the Standards on Excellence Commission. If the investigation finds the allegation to be supported by clear and convincing evidence, then the local board shall designate a professionally qualified person who shall conduct a re-evaluation of the supervisor within thirty days. If the re-evaluation is unsatisfactory, then the supervisor may again file an affidavit under oath with the previously identified designee alleging personal or political motivation. If the designated investigator again finds the allegations to be supported by clear and convincing evidence, then the second unsatisfactory evaluation shall be void and a final re-evaluation shall be conducted by the designated investigator. If the final re-evaluation is satisfactory, then the contract of the supervisor shall be extended for one year. Nothing in this subsection shall be construed to limit other reasons for dismissal of a nontenured principal which are otherwise provided by law.

(7) Any nontenured supervisor who has received an unsatis-

factory annual evaluation and thereafter shall in two successive years receive satisfactory evaluations shall be deemed to have been restored to a three-year contract with his employing board.

(8) A nontenured supervisor may be transferred or dismissed at any time during the term of the supervisor's contract by being afforded the hearing rights and procedures outlined herein for any other tenured employee.

(f) All current tenured supervisors not electing to be employed as nontenured supervisors shall be deemed to have elected to remain as tenured supervisors. A tenured supervisor shall have the opportunity to elect to be employed as a nontenured supervisor as provided in this act.

(g) For three years after the effective date of this act, an employing board, for periods of time not to exceed ninety days, may allow a tenured supervisor to elect to change his employment to that of a nontenured supervisor. The election is irrevocable. Within the three-year period above, the employing board may allow for multiple opportunities for a tenured supervisor to change his employment to that of a nontenured supervisor.

(h) As of the effective date of this chapter, an employing board shall not reduce the salary schedule of a supervisor below the 1992-93 salary schedule level.

On motion of Senator Corbett, said amendment was laid on the table.

Yeas 16 Nays 5

Yeas:

Senators:

Amari, Bennett, Bolling, Campbell, Corbett, Dixon, Ellis, Foshee, Hale, Langford, Lindsey, Owens, Parsons, Sanders, Waggoner, and Windom -16

Nays:

Senators:

Bailey, deGraffenried, Dial, Little, and Prewitt

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MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills

and ordered same sent forthwith to the Senate without engrossment:

By Rep. Dolbare (With Notice and Proof):

H. 647. Relating to Washington County; to change the composition of the Washington County Commission; to provide that the Washington County Commission shall consist of five members elected from five single-member districts; to provide that the Probate Judge of Washington County shall serve as the ex-officio non-voting Chair of the commission and shall preside at all meetings thereof; to provide for the terms of the members of the commission; to require that the members of the commission shall reside within the boundaries of the single-member district he or she is elected to represent; and to repeal all conflicting laws.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 647, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Clark (J) (With Notice and Proof):

H. 649. Relating to Barbour County; authorizing the county commission to levy a special recording fee of \$3.00 in addition to all existing/recording fees and charges, for each such document hereafter filed for record in Barbour County; to be appropriated to the Barbour County general fund on a monthly basis to be used for general county purposes.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 649, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Clark (J) (With Notice and Proof):

H. 650. Relating to Barbour County; providing for the establish-

ment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as county revenue commissioner; providing for the election and compensation of the official; abolishing the offices of tax assessor and tax collector; and providing for a referendum on this act.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 650, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Clark (J) (With Notice and Proof):

H. 652. Relating to Barbour County; providing for an additional special transaction fee on certain public business filed and transacted in the offices of the tax assessor, tax collector, or revenue commissioner, and providing for disposition of funds from the additional fees.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 652, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Clark (J) (With Notice and Proof):

H. 653. Relating to Barbour County; providing for an additional special transaction fee on public business filed and transacted in the office of the judge of probate, and providing for disposition of funds from the additional fees.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 653, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 647, 649, 650, 652, and 653 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Newton (D), Campbell, Barnes, Fuller, and Holladay:

H. 605. To amend Sections 12-19-71, 12-19-72, 12-19-171, 12-19-172, 12-19-174, 12-19-175, 12-19-176, 12-19-178, and 12-19-179, Code of Alabama 1975, to increase the fees and costs in circuit and district courts; to further provide for the distribution of fees and costs in circuit and district courts so as to enhance that portion of the fees and costs that is distributed to the state general fund; to make supplemental appropriations for the fiscal year ending September 30, 1992; to make appropriations for the fiscal year ending September 30, 1993; to repeal all laws or parts of laws in conflict herewith; and to provide for the effective date of this act.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 605 - to the Committee on Finance and Taxation

FURTHER CONSIDERATION OF HB 221

The Senate proceeded to further consideration of the Bill, HB 221. The question was on the Bennett substitute No. 2, as amended.

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Senator Sanders offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for HB 221 on page 8, line 29, after the word "Boards", by deleting the following:

~~and/or any other such organization which shall be approved by the State Board of Education.~~

Further amend the substitute, as amended, for HB 221 on page 14, line 8, after the word "Boards", by deleting the following:

~~and/or any other such organization which shall be approved by the State Board of Education.~~

Senator Bennett moved that said amendment be laid on the table, which motion was lost.

Yeas 8 Nays 17

Yeas:

Senators:

Bennett, Campbell, Corbett, Langford, Lindsey, Mitchem, Parsons, and Windom - 8

Nays:

Senators:

Amari, Bailey, Bolling, deGraffenried, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Lipscomb, Little, Owens, Preuitt, Sanders, Smith (J), and Waggoner -17

And said amendment was then adopted.

Senator Bolling offered the following amendment to the substitute, as amended, for the Bill, HB 221, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 221**

Amend the substitute, as amended, for House Bill No. 221 Page 15 Line 17, as follows:

Delete the language "March 1" and insert in lieu thereof the following language:

"October 1"

Which was adopted.

Senator Foshee moved that the Rules be suspended and further consideration of the Bill, HB 221, and pending substitute, as amended, be postponed temporarily.

Senator Bennett moved that the motion to postpone temporarily be laid on the table, which motion was lost.

Yeas 13 Nays 15

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Corbett, Denton, Floyd, Horn, Langford, Mitchem, Parsons, Smith (J), and Windom -13

Nays:

Senators:

Bedsole, deGraffenried, Dial, Dixon, Ellis, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Owens, Preuitt, Sanders, and Waggoner -15

The question recurred on the motion of Senator Foshee, that the Rules be suspended and further consideration of the Bill, HB 221, and pending substitute, as amended, be postponed temporarily, which motion was adopted.

BUDGET ISOLATION RESOLUTION

Senator Bedsole requested and received permission to suspend the Rules in order to bring up the Bill, HB 164.

Senator Bedsole, B.I.R., HB 164, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Owens, Parsons, Preuitt, Sanders, and Waggoner -21

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 164. To allow any active and contributing member of the

Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

was taken up.

The Standing Committee on Governmental Affairs/State Administration reported the following substitute for the Bill, HB 164, to-wit:

SUBSTITUTE FOR HB 164

**A BILL
TO BE ENTITLED
AN ACT**

To amend Section 36-27-49.3 of the Code of Alabama 1975, as amended, relating to the purchase of military service for creditable service in the employees' or teachers' retirement system who have met minimum vesting requirements, so as to add members of the judicial retirement system, and to allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-27-49.3 of the Code of Alabama 1975, as amended, is hereby further amended to read as follows:

"§36-27-49.3.

"(a) Whenever used in this section, all words and phrases defined in section 36-27-1 and section 16-25-1 and Article 12, Chapter 18 of the Code of Alabama 1975, shall have the same meanings ascribed to them in such sections and chapter, unless the context clearly indicates that a different meaning is intended.

"(b) Any active and contributing member of the employee's or teachers' or judicial retirement system of Alabama who has met the minimum vesting requirements under said system and who has honorable duty consisting of active full time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the armed

forces, and who has not received credit for such service toward retirement status in the employees' or teachers' or judicial retirement system or any other public pension fund including the U.S. armed forces, but excluding the federal social security program, may be granted by the board of control, membership service for up to four years of such service in the armed forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

(c) Any active and contributing member of the Employee's or Teachers' retirement system of Alabama who has been such a member for six consecutive years or more and who has honorable duty consisting of active full time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch or the armed forces, and who has not received credit for such service toward retirement status in the Employees' or Teachers' Retirement System or any other public pension fund including the U.S. armed forces, but excluding the federal social security program, may be granted by the board of control, membership service for up to four years of such service in the armed forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

"(d) Any member eligible to claim and purchase such credit for service under subsection (b) or (c) of this section shall be awarded creditable service under the employees' or teachers' or judicial retirement system of Alabama provided he or she shall pay into said retirement system or fund, prior to said member's date of retirement, a sum equal to a percentage of his or her current annual earnable compensation, or average final compensation, whichever, is greater, for each year of service purchased; the applicable percentage of this current annual earnable compensation or average final compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation, for each year of service purchased."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Which was adopted.

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Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Parsons, Preuit, Sanders, and Waggoner -22

Nays:

- 0

Senator Parsons offered the following amendment to the Bill, HB 164, as amended by the substitute, to-wit:

AMENDMENT TO HB 164, AS AMENDED

Amend House Bill No. 164, as amended by the substitute, on page 2, line 27, as follows:

after the word "service" insert the following language:

including service in the Merchant Marine

Which was adopted.

Yeas 21 Nays 2

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Parsons, Preuit, Sanders, and Windom -21

Nays:

Senators:

Denton and Little

- 2

Senator Dixon offered the following amendment to the Bill, HB 164, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 164, AS AMENDED

On page 2, line 30, after the comma, insert the language:

including foreign service of the United States

Which was adopted.

Yeas 19 Nays 1

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Floyd,
Foshee, Hale, Horn, Lindsey, Lipscomb, Mitchem, Owens, Parsons,
Preuitt, Sanders, and Waggoner -19

Nay: Senator Little

- 1

Senator Little moved that the Rules be suspended and further consideration of the Bill, HB 164, be postponed temporarily, which motion was lost.

Yeas 9 Nays 12

Yeas:

Senators:

Bailey, Barron, Bolling, Denton, Dixon, Floyd, Foshee, Horn, and
Little - 9

Nays:

Senators:

Bedsole, Bennett, Campbell, deGraffenried, Dial, Langford, Lindsey,
Mitchem, Owens, Parsons, Preuitt, and Waggoner -12

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills and Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SB 296	SJR 72	SJR 83
SJR 64	SJR 80	SJR 84
SJR 69	SJR 82	SJR 85

Delivered to the Governor, April 9, 1992, at 2:15 P.M.

SJR 18	SB 8	SB 427
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Delivered to the Governor, April 9, 1992, at 5 o'clock P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 7:40 P.M., on motion of Senator Foshee, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, HB 164, the Senate adjourned until Tuesday, April 14, 1992, at 9 o'clock A.M.

TWENTY-SECOND LEGISLATIVE DAY

TUESDAY, APRIL 14, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Jack Floyd, Tenth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Leslie Oliver, Dadeville High School, Dadeville, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Twenty-First Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuit, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senator Smith (J) for today.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 265. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Thursday, April 9, 1992, they adjourn to meet again on Tuesday, April 14, 1992.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 265, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

REQUEST DENIED

Senator Dial requested permission to suspend the Rules in order to bring up the Bill, SB 552.

Upon objection of Senators Corbett and Parsons, said request was denied.

**UNFINISHED BUSINESS
BILLS ON THIRD READING**

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

H. 164. To allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

as amended, which substitute and amendment are set out in the Journal of the Senate for the Twenty-First Legislative Day.

And said Bill, HB 164, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 22 Nays 1

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuit, Waggoner, and Windom -22

Nay: Senator Bailey - 1

BUDGET ISOLATION RESOLUTION

Senator Ellis, B.I.R., HB 227, adopted.

Yeas 20 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, deGraffenried, Denton, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Waggoner, and Windom -20

Nay: Senator Amari - 1

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

Pursuant to the provisions of SR 104, the Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 227. To create the Commission on the Governance of Higher Education; and to provide an appropriation for the implementation of the act.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 227, to-wit:

SUBSTITUTE FOR HB 227

**A BILL
TO BE ENTITLED
AN ACT**

To create the Commission on the Governance of Higher Education; and to provide an appropriation for the implementation of the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. There is created the Commission on the Governance of Higher Education which shall be composed of nine members as follows: three members appointed by the Governor, three members appointed by the Lieutenant Governor, and three members appointed by the Speaker of the House of Representatives. One of the appointments by the Governor, one of the appointments by the Lieutenant Governor and one of the appointments by the Speaker of the House of Representatives shall be black. No appointee or member shall be a member of the faculty, administration, board of trustees, staff, or otherwise in the employ of any two or four year college or institution. The members of the Commission shall serve without compensation.

Section 2. The Commission shall evaluate the governance of public higher education, including two-year institutions and four-year institutions, and present a proposal to the Legislature for possible modification of the governing systems of public higher education. The Commission shall recognize the role, scope and mission of the traditionally black institutions of higher education.

Section 3. The Commission shall conduct public hearings throughout the State of Alabama to receive public input regarding the governance of higher education. The number of hearings and dates of hearings shall be within the discretion of the Commission, but the hearings shall be concluded no later than December, 1993.

Section 4. The Commission shall issue a preliminary report to

the Legislature and to the public no later than November 15, 1994. After the preliminary report is issued, the Commission shall receive additional public commentary for a period of ninety days, ending February 15, 1995.

Section 5. The Commission shall present its final report with respect to its recommended implementation plan no later than March 15, 1995.

Section 6. The Commission is authorized and directed to report to the Legislature with respect to the following:

(a) An analysis and evaluation of the current governance of public higher education. This shall include an analysis and evaluation of the cost justification and cost efficiency of the current decision-making process, and recommendations for any modifications to that process.

(b) An implementation plan for recommended modifications of the governance of public higher education and the utilization of resources in public higher education.

Section 7. The Commission is authorized to contract for consultant, advisory, or other professional services it deems necessary to fulfill the duties of the Commission.

Section 8. The Commission, its consultants, advisors, and other employees shall cease existence upon presentation of the proposal to the Legislature or, regardless of whether a proposal is presented to the Legislature, on May 1, 1995.

Section 9. There is hereby appropriated the sum of \$200,000.00 from the Alabama Special Educational Trust Fund to carry out the provisions of this act.

Section 10. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are hereby repealed.

Section 12. This act shall be implemented only if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law.

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Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 227, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 227

Amend the substitute for House Bill 227 on Page 2, Line 33, as follows:

"Every effort shall be made to utilize the expertise and information available from the Alabama Commission on Higher Education, to include staff should they be made available on a voluntary basis from the Commission."

On motion of Senator Ellis, said substitute and amendment were laid on the table.

Senator Dixon offered the following amendment to the Bill, HB 227, to-wit:

AMENDMENT TO HB 227

Amend HB 227, on page 2 line 29 following the period "." by inserting the following:

"The Commission shall utilize the staff expertise and the information available from the Alabama Commission on Higher Education."

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Smith (B), and Windom-23

Nays:

- 0

Senator Bailey offered the following amendment to the Bill, HB 227, as amended, to-wit:

AMENDMENT TO HB 227, AS AMENDED

Amend HB 227, as amended, on page 3 line 1 following the word "hereby" by inserting the word:

"conditionally"

Further amend HB 227, as amended, on page 3 line 3 following the word "act" by inserting the following:

", conditioned upon the availability of funds, the recommendation of the Finance Director and the approval of the Governor."

Which was lost.

Yeas 10 Nays 16

Yeas:

Senators:

Bailey, Bolling, Campbell, Dixon, Figures, Foshee, Horn, Langford, Lindsey, and Lipscomb -10

Nays:

Senators:

Amari, Barron, Bedsole, Bennett, deGraffenried, Dial, Ellis, Floyd, Hale, Little, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom -16

Senator Parsons offered the following amendment to the Bill, HB 227, as amended, to-wit:

AMENDMENT TO HB 227, AS AMENDED

On page 2, on line 25, after the word "campuses" insert:

or programs

Which was adopted.

Yeas 21 Nays 4

Yeas:

Senators:

Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Smith (B), Waggoner, and Windom -21

Nays:

Senators:

Bailey, Campbell, Horn, and Langford

- 4

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Senator Langford offered the following amendment to the Bill, HB 227, as amended, to-wit:

AMENDMENT TO HB 227, AS AMENDED

Amend HB 227, as amended, on page 1 line 38 following the period "." by inserting the following sentence:

"The Commission shall recognize the role, scope and mission of the traditionally black institutions of higher education."

Which was adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Waggoner, and Windom
-25

Nays:

- 0

Senator Foshee offered the following amendment to the Bill, HB 227, as amended, to-wit:

AMENDMENT TO HB 227, AS AMENDED

On Page 3, after line 3 insert the following new Section 10 and renumber subsequent sections accordingly:

Section 10. No new campus, building, or extension shall be created or constructed by any institution of higher education without the approval of the Legislature. The approval of the legislature may be by joint resolution.

On page 1, on line 19, after the word "act" insert:

, and to require legislative approval prior to the adding to a new campus, building or extension by an institution of higher education.

Which was adopted.

Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett,

deGraffenried, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Waggoner, and Windom -26

Nays: - 0

And said Bill, HB 227, as thus amended, was read a third time at length and passed.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Smith (B), and Windom -23

Nay: Senator Figures - 1

BUDGET ISOLATION RESOLUTION

Senator Bailey, B.I.R., HB 240, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), and Windom -24

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 240. To modify the tax imposed on the net income of individuals, trusts, estates, by repealing Code of Alabama (1975) Sections 40-18-1 through 40-18-39, 40-18-41 through 40-18-49, 40-18-51, 40-18-52, 40-18-54, 40-18-55, 40-18-57 through 40-18-76, 40-18-78, 40-18-81 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to income tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of an income tax based on federal

taxable income with modifications; to provide transitional rules and elections to reflect differences between prior Alabama and federal law; to provide for the treatment of certain corporations electing to be taxed as S corporations; to provide for the collection of the tax by payment with returns, by withholding from salaries and wages, and by estimated tax payments; to provide certain transitional rules and elections; to provide for the severability of any invalid provision; and to provide for the bill to become effective only if an amendment to the Constitution of Alabama of 1901, proposed in H.B. 252 of the 1992 Regular Session, is adopted by the people and proclaimed by the Governor.

was taken up.

On motion of Senator Dial, the Rules were suspended and further consideration of the Bill, HB 240, was postponed subject to the call of the Chair.

THE BILL:

H. 247. To provide for the reporting of tax exempt property by any lessee of the property; to provide for reports from the several county tax assessors and to the State Department of Revenue; and to provide penalties.

was taken up.

On motion of Senator Windom, the Rules were suspended and further consideration of the Bill, HB 247, was postponed subject to the call of the Chair.

THE BILL:

H. 246. To authorize the abatement of local ad valorem taxes (other than those imposed for public school purposes and for capital improvements for public education), construction related transactions taxes, and mortgage and recording taxes incurred in establishing or expanding industries in Alabama; provides a procedure for granting the abatement of local ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes; limits the tax exemptions available through various public agencies and authorities and local governments; to require additional reporting of county tax assessing officials so that the annual abstract of property identifies and lists property by class and by public school system within the county; to provide transition rules; to preserve rights and obligations accrued under repealed laws; to provide for the severability of any invalid provision; to

provide effective dates; to amend Section 40-7-35 and to repeal Sections 40-9-40 through 40-9-49, Code of Alabama 1975.

was taken up.

On motion of Senator Hale, the Rules were suspended and further consideration of the Bill, HB 246, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., HB 319, adopted.

Yeas 21 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Hale, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, and Windom -21

Nay: Senator Amari

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

H. 319. To establish the Personnel Control Reform Committee for the review of all personnel hiring requests made by agencies of the State of Alabama; to prohibit such hiring unless favorably recommended by the committee; to provide for the severability of the provisions hereof; and to provide for an effective date.

was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 319, to-wit:

SUBSTITUTE FOR HB 319

A BILL TO BE ENTITLED AN ACT

To establish the Personnel Control Reform Committee for the review of all personnel hirings and requests for additional positions made

by agencies of the State of Alabama; to study the feasibility of reducing the total state workforce by 5% and to make annual reports on the adequacy of the state workforce; to provide for the severability of the provisions hereof; and to provide for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Short title: This act shall be known as and may be cited as the "Personnel Control Reform Act of 1992".

Section 2. (a) There is hereby created a committee, to be known as the Personnel Control Reform Committee to have the powers and duties set forth below. This committee shall consist of 5 members as follows:

- (1) The Governor or his designee.
- (2) The State Finance Director or his designee.
- (3) The State Personnel Director or his/her designee.
- (4) The Chairman of the House Committee on Ways and Means.
- (5) The Chairman of the Senate Committee on Finance and Taxation.

(b) The committee is hereby empowered and directed to review all personnel hirings made by all departments, boards, offices, commission, and agencies of the State of Alabama (hereafter referred to as the "state agency"). The committee shall review requests made for additional personnel positions funded from state or federal funds and shall include classified, unclassified, temporary, contract, part-time or exempt employees. The review of requests for additional positions shall result in a decision whether an additional position should be created by the requesting state agency and no additional positions shall be filled without approval from the committee.

(c) The committee shall begin its duties effective June 1, 1992 and shall continue in existence unless discontinued by joint resolution of the Alabama Legislature.

(d) The committee shall hold its initial meeting within one month of organization and such initial meeting shall not be later than July 10, 1992. Subsequent meetings shall be held within the first 10 days of the beginning of each month the committee is in existence, unless the State

Personnel Office so notifies the committee that no hirings or requests for additional positions have been received in the preceding month, as explained below in Section 3 of this bill. Public notice of such meetings shall be given by the State Personnel Office and shall be no later than 4 days prior (excepting Saturdays, Sundays, and holidays) to the convening of the committee meetings.

(c) The committee members shall receive no compensation, except Legislative members who may receive per diem and other expenses as paid to other legislative members for attendance at committee meetings.

Section 3(a). Effective June 1, 1992, no state agency shall fill a newly-created personnel position without approval from the Personnel Control Reform Committee. In making a request for the creation of a new personnel position to the committee, the following procedure is prescribed.

(1) All state agencies shall submit the request for new positions to the State Personnel Department by the 25th of each month preceding the monthly meeting of the committee.

(2) The State Personnel Office shall collect all such requests and deliver these to the full committee for review.

(3) The committee shall either disapprove or approve such requests and notice in writing of the committee decision shall be provided to the requesting state agency. Such written notice shall be prepared by the State Personnel Office and shall be directed to the requesting state agency within five days (excepting Saturdays, Sundays, and holidays) of the committee decision.

(b) Effective June 1, 1992, each state agency shall submit a list of all employees hired by said agency to the State Personnel Department by the 25th of each month preceding the monthly meeting of the committee. The list shall include classified, unclassified, exempt, temporary, part-time and contract employees hired by said agency since the previous meeting of the committee. The State Personnel Department shall provide the list of all new hirings by agency to the committee for its review. The State Personnel Department and each state agency shall provide such further information concerning the hirings to the committee as it deems necessary.

Section 4(a). The committee shall conduct a comprehensive study of the staffing levels of the state agencies to assess the feasibility of re-

ducing the total state workforce by 5%, without imposing undue burdens on the state agencies in providing their respective services. The report shall also include the committee's recommendations of how any recommended staff reduction should be accomplished. The state agencies shall cooperate fully in furnishing information that the committee deems necessary in conducting its study. The committee shall report its findings to the Legislature and to the Governor by the tenth legislative day of the 1993 Regular Session of the Alabama Legislature.

(b) Annually thereafter, unless discontinued by a resolution of the Legislature, the committee shall make a report by the tenth legislative day of each regular session to the Governor and to the Legislature on the status of the state's workforce. These reports shall include the findings and recommendations of the committee concerning which state agencies have either more or less than sufficient numbers of employees to provide an adequate level of their respective services, the types of positions that are both excessive in number and deficient in number within the state workforce and the extent of any progress made in reaching any recommended reductions in the state workforce.

Section 5. All laws in direct conflict with this Act are hereby repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 7. This act shall become effective immediately upon passage and approval by the Governor, or upon its otherwise becoming law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 319, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 319

Amend the substitute for House Bill 319 on Page 2, Line 4, as follows:

By inserting before the period "." the following: "or his or her designee from his or her respective legislative body".

Further amend the substitute for House Bill 319 on Page 2, Line 6, by inserting before the period "." the following: "or his or her designee from his or her respective legislative body".

On motion of Senator Owens, said substitute and amendment were laid on the table.

Senator Owens then offered the following substitute for the Bill, HB 319, to-wit:

SUBSTITUTE FOR HB 319

**A BILL
TO BE ENTITLED
AN ACT**

Creating the Personnel Control Reform Committee; providing for the powers, duties, and dissolution of the committee; and prohibiting certain state agencies establishing new personnel positions without the approval of the committee.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as and may be cited as the Personnel Control Reform Act of 1992.

Section 2. The Personnel Control Reform Committee is created. The committee shall consist of the following five members:

- (1) The Governor or his or her designee.
- (2) The Director of Finance or his or her designee.
- (3) The State Personnel Director or his or her designee.
- (4) The Chair of the Committee on Ways and Means of the House of Representatives or a designee of the chair who is a member of the House of Representatives.
- (5) The Chair of the Committee on Finance and Taxation of the Senate or a designee of the chair who is a member of the Senate.

Section 3. (a) The committee shall commence the performance of its duties on June 1, 1992.

(b) The committee shall hold its initial meeting by July 10, 1992. Subsequent meetings shall be held within the first 10 days of the beginning of each month. A meeting shall not be required if the State Personnel Department notifies the committee that no listings of hirings

or requests for new personnel positions were received by the department by the 25th day of the preceding month. Public notice of all meetings shall be given by the department at least four business days prior to the convening of the meeting. The notice shall be in the form prescribed by the committee.

(c) Each legislative member of the committee shall be entitled to his or her regular legislative compensation, per diem, and travel expenses for each day of attendance at a meeting of the committee. The allowances, expenses, and compensation of legislative members of the committee shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by a member of the committee. No legislative member shall receive additional compensation or per diem when the Legislature is in session or if a legislative member is being paid any other payments on the same dates for attendance of other state business. Other members of the committee shall not receive compensation for attending meetings of the committee.

(d) The Legislature, by the adoption of a joint resolution, may dissolve the committee. Once dissolved, the committee shall not be reestablished by the adoption of a joint resolution of the Legislature.

Section 4. (a) For the purposes of this act, state agency means any department, board, office, commission, or agency of the Executive Department of the state. The committee shall review each request of a state agency to establish a new personnel position funded from state or federal funds including, but not limited to, requests regarding new personnel positions for classified, unclassified, temporary, contract, part-time, or exempt employees. The committee, after a review, shall determine if a new personnel position should be created by the requesting state agency.

(b) Effective June 1, 1992, no state agency shall establish or fill a new personnel position without the approval of the committee. Prior to the establishment of a new personnel position, each of the following procedural requirements shall be followed:

(1) The state agency shall submit the request for a new personnel position to the State Personnel Department by the 25th day of the month preceding the month in which a meeting of the committee is conducted at which the request will be addressed.

(2) The State Personnel Department shall deliver the request to the committee for review.

(3) The committee shall disapprove or approve the request and written notice of the decision of the committee shall be provided to the requesting state agency. The department shall prepare and provide the notice to the requesting state agency within five business days of the decision of the committee.

Section 5. Effective June 1, 1992, each state agency shall submit a list of all employees hired by the agency to the State Personnel Department by the 25th day of the month in which the employee was hired. If an employee is hired after the 25th day of a month, the employee shall be included by the state agency in the list submitted in the next month. The list shall include classified, unclassified, exempt, temporary, part-time, and contract employees hired by the agency since the previous meeting of the committee. The department shall provide the list of all new hirings by agency to the committee. The department and each state agency, if requested by the committee, shall provide additional information concerning the hirings to the committee. The committee shall review all personnel hirings of a state agency.

Section 6. (a) The committee shall conduct a comprehensive study of the staffing levels of the state agencies to assess the feasibility, without imposing undue burdens on the state agencies in providing their respective services, of reducing the total workforce of the agencies by five percent. The report shall include, but shall not be limited to, the recommendations of the committee regarding the method of accomplishing suggested staff reductions. The state agencies shall furnish information that the committee deems necessary in conducting its study. The committee shall report its findings to the Legislature and to the Governor by the 10th legislative day of the 1993 Regular Session of the Legislature.

(b) Annually thereafter, the committee shall make a report by the 10th legislative day of each regular session to the Legislature and the Governor regarding the status of the workforce of the state agencies. These reports shall include findings and recommendations of the committee concerning each of the following:

(1) Which state agencies have an excessive or deficient number of employees to provide an adequate level of service.

(2) The types of positions that are excessive in number and deficient in number within the workforce of the state agencies.

(3) Progress made in reaching any recommended reductions in the workforce of the state agencies.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator Parsons offered the following amendment to the substitute for the Bill, HB 319, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 319

On page 3, on line 19, after the words "Executive Department" insert:

", Judicial Department, or the Legislative Department"

On motion of Senator Owens, said amendment was laid on the table.

Yeas 12 Nays 10

Yeas:

Senators:

Amari, Campbell, deGraffenried, Denton, Ellis, Foshee, Hale, Horn, Lindsey, Little, Mitchell, and Owens -12

Nays:

Senators:

Bailey, Bolling, Corbett, Dixon, Floyd, Langford, Lipscomb, Parsons, Sanders, and Smith (B) -10

Senator Parsons then offered the following amendment No. 2 to the substitute for the Bill, HB 319, to-wit:

AMENDMENT NO. 2 TO SUBSTITUTE FOR HB 319

On page 4, on line 11, after the period insert the following:

If the committee approves the creation of a new personnel position or the filling of a new personnel position, the committee shall prepare a written report, specifying in detail, the necessity for the new personnel position or the filling of the position. The report shall be available for public review.

Senator Owens moved that said amendment be laid on the table, which motion was lost.

Yeas 7 Nays 14

Yeas:

Senators:

Campbell, Denton, Hale, Horn, Mitchell, Owens, and Preuit - 7

Nays:

Senators:

Amari, Bailey, Bennett, Bolling, Corbett, Dixon, Ellis, Figures, Floyd, Langford, Lindsey, Parsons, Sanders, and Smith (B) -14

And said amendment was then adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Owens, Parsons, Sanders, and Smith (B) -23

Nays:

- 0

Senator Dixon offered the following amendment to the substitute, as amended, for the Bill, HB 319, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 319**

On page 3, on line 14, after the word "resolution" insert:

with a recorded roll call vote of each house

Which was adopted.

Senator Lindsey offered the following amendment to the substitute, as amended, for the Bill, HB 319, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 319**

On page 5, on line 24, insert the following new Section 8 and renumber the present Section 8 as Section 9.

Section 8. This act shall be implemented only if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law.

**REGULAR SESSION
22nd Day**

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On page 2, on line 4, after the word "committee" insert:

, and condition the implementation on the adoption of a certain constitutional amendment.

Senator Owens moved that said amendment be laid on the table, which motion was lost.

Yeas 10 Nays 14

Yeas:

Senators:

Bennett, deGraffenried, Dixon, Ellis, Ghee, Lipscomb, Little, Mitchell, Owens, and Waggoner -10

Nays:

Senators:

Amari, Bailey, Bolling, Campbell, Corbett, Figures, Floyd, Foshee, Hale, Langford, Lindsey, Parsons, Sanders, and Smith (B) -14

And said amendment was then adopted.

Senator Parsons offered the following amendment No. 3 to the substitute, as amended, for the Bill, HB 319, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE, AS AMENDED,
FOR HB 319**

On page 2, on line 22 delete the language "on June 1, 1992" and insert in lieu:

thirty days after the implementation of this act is authorized.

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, deGraffenried, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), and Waggoner -24

Nays:

- 0

And said Bill, HB 319, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 24 Nays 4

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Sanders, Smith (B), Waggoner, Wilson, and Windom -24

Nays:

Senators:

Amari, Lindsey, Parsons, and Preuitt

- 4

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 106. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

	Page
H. 251	128
Taxation, corporations and financial institutions, modified, numerous code sections repealed	
H. 249	127
Franchise Tax Reform Act of 1992, numerous code sections amended and repealed	
H. 234	153
Finance dept., div. of management improvement	
H. 245	166
Alabama Transaction Tax Act of 1992, numerous code sections amended and repealed	
H. 281	153
Repeals statutory earmarking of certain state revenues	

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22nd Day**

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H. 228	156
Colleges and universities, bds. of trustees, Gov. appointees limited to 9-yr term of office, Secs. 16-47-30, 16-48-5, 16-49-20, 16-50-20, 16-51-3, 16-52-3, 16-53-3, 16-54-2, 16-55-5 and 16-53-6 am'd.	
H. 244	154
Intangible property tax defined, cert. exemptions, cert. securities incl., Sec. 40-11-1 am'd., Secs. 40-24-1 through 40-24-8 repealed, consti. amend.	
H. 243	161
Ad valorem tax, current use, assessment rates, exemptions, subjects of tax, numerous code sections amended and repealed	
H. 242	152
Taxation, 7 1/2 mil incr., consti. amend.	
H. 248	150
Economic Development Commission estab., ad valorem tax levied, distrib., election, consti. amend.	
H. 252	162
Ad valorem taxation, exemptions, corporate franchise taxes, income tax, repeal exemption of private use property from taxation, Constitution 1901 amended and repealed	

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 251. To modify the tax imposed on the net income of corporations by repealing Code of Alabama (1975), Sections 40-16-1 through 40-16-8, 40-18-1 through 40-18-85, and 40-18-120 through 40-18-176; to provide for the determination of net income subject to said tax; to provide for the types and categories of income exempt from said tax; to provide for the imposition of a single rate income tax based on federal taxable income; to provide transitional rules and elections to

reflect differences between Alabama and federal law; to provide for the collection of the tax by payment with returns, and by estimated tax payments; to provide for the severability of any invalid provision; to repeal conflicting laws; and to provide for effective dates and contingencies.

On motion of Senator Figures, the Rules were suspended and further consideration of the Bill, HB 251, was postponed subject to the call of the Chair.

THE BILL:

H. 249. To provide for the Franchise Tax Reform Act of 1992; to amend Sections 40-14-40, 40-14-41, 40-14-49, 40-14-52, 40-14-53, 40-14-56, and 10-2A-260 and 10-2A-261 of the Code of Alabama 1975; to repeal Sections 40-14-1 through 40-14-3, inclusive, 40-14-20 to 40-14-23, inclusive, 40-14-41.1, 40-14-42 to 40-14-48, inclusive, 40-14-50, 40-14-51, 40-14-54, 40-14-55, and 40-14-70 to 40-14-74, inclusive, Code of Alabama 1975.

was taken up.

On motion of Senator Figures, the Rules were suspended, and further consideration of the Bill, HB 249, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Lipscomb, B.I.R., HB 234, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bedsole, Bolling, deGraffenried, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Parsons, Sanders, Smith (B), Waggoner, and Windom -20

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 234. To establish the Commission on Economy and Produc-

tivity to study and analyze the operation and administration of each agency of state government to determine the means, methods, and manner by which the services of the state may be afforded to the citizens in the most efficient, expeditious, and economical manner; to provide for the appointment, term of office, payment of expenses, functions, and duties of the members of the commission, to provide for a Legislative Oversight Committee; and to provide for a conditional implementation.

was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 234, to-wit:

SUBSTITUTE FOR HB 234

**A BILL
TO BE ENTITLED
AN ACT**

To direct the director of finance to establish a division of management improvement to study and analyze state government in order to ascertain the means, methods, and manner by and in which the services of the state of Alabama may be afforded to the citizens in the most efficient, expeditious, and economical manner.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The director of finance shall establish within the department of finance the division of management improvement. The functions and duties of the division of management improvement shall be as follows:

- (1) To promote economy, efficiency and effectiveness in state government.
- (2) To provide management analysis services, acting as facilitator or process advisor with agency or departmental staff.
- (3) To provide information and recommendations to the governor and legislature when requested.
- (4) To provide training in the methods and techniques of effective supervision.
- (5) To perform such other functions and duties as may from time

to time be assigned by the director of finance.

Section 2. The division of management improvement shall be headed by and under the direction, supervision, and control of an officer who shall be designated the director. The director may be employed from within or without the classified service; such director shall be appointed by and serve at the pleasure of the director of finance, with the approval of the governor. The director shall be entitled to the same benefits as any person in the classified service.

Section 3. The director of finance may employ, subject to the provisions of the state merit system, such additional employees as may be needed, and fix their compensation in accordance with the merit system pay plan.

Section 4. The division of management improvement may, with the approval of the director of finance, accept monetary grants from public and private sources for the improvement of management in state government and expend those funds for the specific grant purpose.

Section 5. A total quality management improvement (TQM) program shall be implemented in each department or agency of state government, provided however, the provisions of this section shall be effective only to the extent that funds are appropriated for this purpose.

Section 6. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 8. This act shall be effective for all fiscal years or periods beginning after September 30, 1992, if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session is ratified by the people and proclaimed by law.

Senator Little offered the following amendment to the substitute for the Bill, HB 234, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 234

Amend the substitute for HB 234 on page 2 line 13 after the comma ",,"

by inserting the following:

"subject to the approval of the Legislative Joint Fiscal Committee and"

Also:

Further amend on page 2 after line 16 by inserting a new sentence:

"The director of finance shall meet with the Joint Fiscal Committee at least every four years to review and justify the work of the division and the number and salaries of the employees within said division."

Which was adopted.

Senator Lindsey offered the following amendment to the substitute, as amended, for the Bill, HB 234, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 234**

On page 2, after the second line, insert the following as a new subsection (5) and renumber existing subsection (5) as subsection (6):

(5) To establish a policy to review annually any outstanding warrants and to cancel any warrants that have not been submitted for payment within 180 days of the date of issuance with the moneys reverting to the fund from which the warrant was drawn.

Which was adopted.

Senator Figures offered the following amendment to the substitute, as amended, for the Bill, HB 234, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 234**

Amend the substitute, as amended, for House Bill 234, on page 2 by deleting Section 4 in its entirety and renumbering all subsequent sections accordingly.

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 17 Nays 4

Yeas:

Senators:

Bailey, Barron, Bolling, Campbell, deGraffenried, Dial, Ellis, Foshee,

Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons,
and Sanders -17

Nays:

Senators:

Bedsole, Corbett, Figures, and Little - 4

And said Bill, HB 234, as amended by the substitute, as amended,
was read a third time at length and passed.

Yeas 19 Nays 4

Yeas:

Senators:

Amari, Bailey, Barron, Bolling, Dial, Ellis, Foshee, Ghee, Hale,
Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt,
Sanders, Smith (B), and Windom -19

Nays:

Senators:

Bedsole, Corbett, Figures, and Little - 4

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 90. URGING THE ALABAMA DEVELOPMENT DISABILITIES PLANNING COUNCIL AND THE DEPARTMENT OF MENTAL HEALTH AND RETARDATION, IN COOPERATION WITH OTHER INDIVIDUALS AND GROUPS, TO DEVELOP A COMPREHENSIVE FAMILY AND SUPPORT PLAN FOR DISABLED PERSONS AND NEEDED LEGISLATION.

Also:

SJR 91. MOURNING THE DEATH OF FRED BEN REED OF SPANISH FORT, BALDWIN COUNTY, ALABAMA.

Also:

SJR 92. DESIGNATING THE WEEK OF APRIL 26 - MAY 2,

1992, AND THE LAST WEEK IN APRIL ANNUALLY THEREAFTER, AS "BIG BROTHERS/BIG SISTERS OF ALABAMA APPRECIATION WEEK."

Also:

SJR 93. MOURNING THE DEATH OF MAXWELL NEAL BROWN OF ENTERPRISE, ALABAMA.

Also:

SJR 94. NAMING THE "HOBART L. LOVE CHAPEL" AT JULIA TUTWILER PRISON.

Also:

SJR 105. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED EDUCATIONAL LEADERSHIP.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 274. To provide for a requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller.

Also:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10,

37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

BUDGET ISOLATION RESOLUTION

Senator Barron, B.I.R., HB 245, adopted.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Campbell, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, and Windom -22

Nays:

Senators:

Amari and Barron

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

H. 245. To provide for the Alabama Transaction Tax Act of 1992; to amend Sections 11-51-180 to 11-51-182, inclusive, 11-100-3, 11-100-4, 11-100-7, 16-15-11, 16-16-11, 40-12-4, 40-12-6, 40-12-7, 40-21-85, 40-21-106, 40-21-122, and 40-29-73, Code of Alabama 1975; to repeal Sections 11-51-200 to 11-51-207, inclusive, 34-27-65,

40-12-220 to 40-12-227, inclusive, 40-23-1 through 40-23-121, inclusive, and 40-26-1 through 40-26-21, inclusive, Code of Alabama 1975.

was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 245, to-wit:

SUBSTITUTE FOR HB 245

**A BILL
TO BE ENTITLED
AN ACT**

To provide for the Alabama Transaction Tax Act of 1992; to amend Sections 11-51-180 to 11-51-182, inclusive, 11-100-3, 11-100-4, 11-100-7, 16-15-11, 16-16-11, 40-12-4, 40-12-6, 40-12-7, 40-21-85, 40-21-106, 40-21-122, and 40-29-73, Code of Alabama 1975; to repeal Sections 11-51-200 to 11-51-207, inclusive, 34-27-65, 40-12-220 to 40-12-227, inclusive, 40-23-1 through 40-23-121, inclusive, and 40-26-1 through 40-26-21, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

**ARTICLE 1.
GENERAL PROVISIONS**

Section 1. Short Title.

This act shall be known and may be cited as the "Alabama Transaction Tax Act of 1992."

Section 2. Legislative intent; scope of act.

(a) Legislative intent. The Legislature hereby finds and declares that the enactment by this state of a broadly based tax on consumer transactions involving the payment of consideration for the use, consumption, or ownership of tangible personal property or the provision of certain services effectuates desirable public policy by: (1) providing a uniform system of taxation for consumer transactions in tangible personal property or taxable services; (2) generating sufficient revenues to fund the desired level of public spending without imposing unreasonable burdens on the citizens or the government of the State of Alabama; (3) promoting fairness and minimizing economic distortion by equalizing

the tax treatment of similar consumer transactions; and (4) minimizing the impact of such a tax on Alabama's low-income citizens. The Legislature does therefore declare that the provisions of this act are intended to accomplish these purposes.

(b) **Scope of act.** It is the further intent of the Legislature that the provisions of this act be construed and interpreted in a manner which imposes the tax levied by this act on all transactions in tangible personal property or a taxable service which are not otherwise protected from taxation by the constitution or laws of the United States of America or by the constitution of this state. Accordingly, the provisions of this act shall be construed and interpreted to reflect any changes in the constitution or laws of the United States of America or in the constitution of this state which occur after the date of enactment of this act. To that end, all references in this act to the United States Code shall mean such Code as is in effect from time to time.

Section 3. Definitions.

For purposes of this act, the following terms and phrases are defined as follows:

(a) **AGRICULTURAL PRODUCTS.** The products of commercial agriculture, horticulture, silviculture, apiculture, aquaculture or animal husbandry in their unprocessed or unmanufactured state, including, without limitation, plants, grains, seeds, fruits, nuts, fibers, hay, sod, raw milk, eggs, wool, honey and livestock. For purposes of this act, the term "livestock" shall include cattle, sheep, goats, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees, and fish. Ginned cotton and cottonseed shall not be considered processed or manufactured.

(b) **ALABAMA MOUNTAIN LAKES AREA.** The geographic region comprising Blount, Cherokee, Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston counties.

(c) **AMUSEMENT OR ENTERTAINMENT SERVICES.** Any activity, exhibition, display, amusement or entertainment which is offered to the general public or where an admission fee is charged, including, without limitation, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, sporting events (including athletic contests and sporting events conducted by or under the auspices of any post-secondary or higher educational institu-

tion within this state, or any athletic association thereof), skating rinks, race tracks, golf courses, public bathing places and public dance halls of every kind and description within the state of Alabama.

(d) **CANNED COMPUTER SOFTWARE.** Any prewritten computer application or operational program which is sold at retail to more than one customer. The term "canned computer software" shall not include any computer application or operational program which is designed, developed, written, modified, altered, or translated pursuant to a contract with one or more customers to meet the specifications of such customer or customers, or any computer application or operational program which is sold through direct sales channels or a direct sales force.

(e) **GROSS RECEIPTS.** The sum of all consideration received in a transaction covered by this act; provided, however, that "gross receipts" does not include the following:

(1) the state transaction tax imposed by this act and any local transaction tax imposed by a county or municipality pursuant to Article 4 of this act which is collected by the seller from the purchaser as a separately stated item;

(2) freight, postage, or other transportation charges paid to a common carrier or the U. S. Postal Service where such charges are paid by the purchaser to the seller as a separately stated amount;

(3) the credit allowed for a used vehicle taken in trade, or in a series of trades, on the sale or use of a new or used vehicle;

(4) with respect to a contract for street or highway construction, any amounts paid the contractor pursuant to contractual escalation provisions allowing for an increase in the contract price to reflect increases in the costs of fuel, labor, materials, or taxes; or

(5) with respect to sales through coin-operated dispensing machines of food and food products for human consumption, not including beverages other than coffee, milk, milk products, and substitutes therefor, the difference between the gross proceeds derived from sales of such food, food products or beverages through such machines and the seller's cost of such food, food products, or beverages.

(f) **INDUSTRIAL OR AGRICULTURAL MACHINERY.** Machinery used for (1) mining, quarrying, compounding, processing, or manufacturing tangible personal property for sale; (2) processing tele-

communications; or (3) inseminating, planting, raising, growing, propagating, cultivating, threshing, spraying, harvesting, or producing agricultural products for sale (but not including any vehicle primarily designed for highway use). The term "machinery" includes self-propelled machinery such as a power shovel, dragline, crawler, crawler crane, ditcher or any similar machine. The term "machinery" also includes the parts of such machines and attachments and replacements which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(g) **JUDGE OF PROBATE.** The judge of probate or other designated official who is the authorized licensing authority in a county.

(h) **LEASE OR RENTAL.** Any transaction in which a person who owns or controls the possession of tangible personal property permits another person to have the possession or use thereof for consideration without transfer of the ownership to such property.

(i) **PERSON.** Any individual, firm, partnership, joint venture, cooperative association, syndicate, association, corporation, financial institution, receiver, trust, estate, or any state government, county, or municipality or any agency or instrumentality thereof.

(j) **PURCHASER.** Any person who pays consideration in a transaction covered by this act.

(k) **SALE.** Any transfer of ownership of tangible personal property or the rendering of a taxable service for consideration.

(l) **SELLER.** Any person who receives consideration in a transaction covered by this act.

(m) **STREET AND HIGHWAY CONSTRUCTION.** Constructing, reconstructing, or building any public highway, road, bridge, or street under contract with the state of Alabama, including contracts in which the state of Alabama is a joint party.

(n) **TANGIBLE PERSONAL PROPERTY.** Personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall include canned computer software and industrial and agricultural machinery (whether or not permanently affixed to real estate).

(o) **TAX COLLECTOR.** The tax collector or other designated official who is required by law to fulfill the duties of the tax collector in a county.

(p) **TAXABLE SERVICE.** Any activity performed for consideration which is described below:

- (1) the providing of amusement or entertainment services;
- (2) the providing of transient accommodations; and
- (3) the performance of street and highway construction.

(q) **TRANSIENT ACCOMMODATIONS.** Any accommodations provided to transients for consideration, including, without limitation, rooms, lodging, and accommodation in hotels, motels, convention centers, campsites, and tourist cabins, for a period not exceeding 30 continuous days.

(r) **USE.** Storage, use, or other consumption of tangible personal property; provided, however, that "use" does not include the storage of personal property for subsequent use solely outside the State of Alabama or for subsequent sale, resale, lease, rental, distribution, delivery, or redelivery in the regular course of business.

(s) **VEHICLE.** Any automotive vehicle, truck trailer, trailer, semitrailer, travel trailer, golf cart, all terrain vehicle, motorcycle, boat or airplane.

(t) **WHOLESALE TRANSACTION.** Any sale, lease, or rental of tangible personal property or of a taxable service to a person who will sell, lease, or rent such property or service to another person in the regular course of business; provided, however, that "wholesale transaction" does not include the following:

(1) any sale of construction materials for use in completing a construction contract;

(2) any sale of ophthalmic materials, including without limitation, eyeglasses, frames, lenses, and contact lenses, to a licensed ophthalmologist or optometrist who sells such materials to patients in connection with the providing of professional services; or

(3) any sale of tangible personal property to a licensed undertaker or mortician who sells such property to customers in connection with the providing of services.

(u) **WITHDRAWAL.** A withdrawal occurs if (1) tangible personal property or a taxable service was sold, rented, or leased in a transaction exempted from the tax imposed by this act, (2) such property or service is subsequently used by the taxpayer, and (3) a sale of the property or service for the use described in clause (2) would not have been exempt from the tax imposed by this act. The use of tangible personal property or a taxable service to fulfill a warranty in connection with a sale of tangible personal property or a taxable service is not a withdrawal unless such use occurs in connection with the fulfillment of an extended warranty contract governing such property or service. The use of tangible personal property to recondition or repair tangible personal property that is held for sale in the regular course of business is not a withdrawal. The use of a vehicle in the trade or business of a person engaged in selling vehicles at retail is not a withdrawal unless the vehicle is permanently withdrawn from such person's inventory or stock in trade.

Section 4. Imposition of tax.

(a) Except as provided in subsections (b), (c), (d), (e), (f) and (g) of this section, there is hereby imposed a tax of four percent of the gross receipts from every transaction covered by this act;

(b) There is hereby imposed a tax of one and one-half percent of the gross receipts from every sale, use, withdrawal, lease or rental of industrial or agricultural machinery;

(c) There is hereby imposed a tax of two percent of the gross receipts from every sale, use, withdrawal, lease or rental of a manufactured home, as defined in section 255 of chapter 12 or title 40 of the Code of Alabama 1975;

(d) There is hereby imposed a tax of three percent of the gross receipts from every sale, use, withdrawal, lease or rental of a vehicle;

(e) There is hereby imposed a tax of five percent of the gross receipts from every street and highway construction project;

(f) There is hereby imposed a tax of five percent of the gross receipts from the providing of transient accommodations in the Alabama mountain lakes area; and

(g) Notwithstanding subsections (a), (b), (c), and (d) of this section, there is hereby imposed a tax of one and one-half percent of the gross receipts from every lease or rental of tangible personal property

entered into pursuant to a written contract executed prior to the effective date of this act.

Section 5. Transactions covered by this act.

The following transactions, when they occur in Alabama, are covered by this act, unless specifically exempted:

- (a) The sale, use, or withdrawal of tangible personal property;
- (b) The lease or rental of tangible personal property; and
- (c) The performance of a taxable service.

Section 6. Exemptions.

(a) The following transactions are exempt from the tax imposed by this act:

(1) Any sale, lease, or rental of tangible personal property by a person not regularly engaged in the business of selling, leasing, or renting the same or similar tangible personal property; any providing of amusement or entertainment services by a person not regularly engaged in the business of providing amusement or entertainment services; any providing or transient accommodations by a person not regularly engaged in the business of providing transient accommodations; and any street or highway construction by a person not regularly engaged in the business of street or highway construction;

(2) Any wholesale transaction;

(3) Any sale, resale, distribution, delivery or redelivery of tangible personal property where any of the following occurs:

a. the seller or transporter delivers such tangible personal property outside the State of Alabama using such seller's or transporter's own transportation, transportation hired by the seller or the transporter (including a common carrier), or the United States Post Office;

b. the purchaser or the purchaser's agent takes actual possession of such tangible personal property outside the State of Alabama; or

c. the purchaser or purchase's agent takes actual possession of a vehicle or manufactured home which will be (1) registered or titled outside Alabama and (2) removed by the purchaser or his agent within

72 hours for first use outside the state; provided, however, that manufactured homes, all terrain vehicles, boats and motor bikes shall be exempt from the tax imposed by this act only if the seller provides factual evidence of delivery outside the state (whether by the seller's own transportation, transportation hired by the seller or common carrier). Such factual evidence must be provided on forms approved by the department of revenue.

(4) Any sale of fuel or supplies for use or consumption aboard ships, vessels, towing vessels, barges, drilling ships, rigs, seismic or geophysical vessels, commercial fishing vessels or other watercraft ("vessels") engaged in foreign, international or interstate commerce; provided, however, that nothing in this subdivision shall be construed to exempt or exclude from the measure of the tax imposed by section 4 of this act the gross receipts of any sale of materials or supplies to any person in fulfilling a contract for the painting, repair, or reconditioning of vessels of 5 tons load displacement or less; provided, further, that the provisions of this subdivision shall apply to any sale occurring after June 30, 1986. For purposes of this subdivision, vessels engaged in the transportation of cargo between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states are presumed to be engaged in foreign, international, or interstate commerce, as the case may be. For purposes of this subdivision, engaging in foreign, international, or interstate commerce shall not require that the vessel involved deliver cargo to or receive cargo from a port in the state of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states shall be engaged in foreign, international, or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) the vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels which are engaged in foreign, international, or interstate commerce shall be deemed for the purpose of this subdivision to remain in such commerce while awaiting or under repair in a port of the state of Alabama if such vessel returns after such repairs are completed to engaging in foreign, international, or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in travelling to or from conducting such

tests or evaluations are deemed to be engaged in international or foreign commerce;

(5) Any sale of a ship, vessel, towing vessel, barge, drilling ship, rig, seismic or geophysical vessel, commercial fishing vessel or other watercraft vessel of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the state of Alabama department of conservation and natural resources, when sold by the manufacturers or builders thereof.

(6) Any sale of materials, equipment, and machinery which, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or commercial fishing vessels or other watercraft of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the state of Alabama department of conservation and natural resources.

(7) Any transaction otherwise covered by this act in which the seller and the purchaser are members of an affiliated group of corporations as defined in 26 U.S.C. § 1504;

(8) Any sale where the consideration for the sale is paid with food stamps issued pursuant to the federal food stamp act, 7 U.S.C. chapter 51;

(9) Any sale subject to taxation under chapter 21 of title 40 of the Code of Alabama (1975) (relating to public utilities);

(10) Any sale to the state of Alabama or to the governing body of any county or municipality within the state of Alabama;

(11) Any sale (a) to a public school, college or university; (b) to a private or church school as defined in section 1 of chapter 28 of title 16 of the Code of Alabama 1975 which offers essentially the same curriculum as offered in grades K through 12 in the public schools of this state; or (c) to a not-for-profit institution for higher education as defined in section 2(5) of chapter 18A of title 16 of the Code of Alabama 1975;

(12) Any sale to the United States government or its agencies or instrumentalities to the extent the constitution or statutes of the United States prohibit the imposition of the tax imposed by this act;

(13) Any sale by the state of Alabama or the governing body of a

county or municipality within the state of Alabama;

(14) Any sale by the United States government or its agencies or instrumentalities to the extent the constitution or statutes of the United States prohibit the imposition of the tax imposed by this act;

(15) Any sale of agricultural products by the producer thereof;

(16) Any sale of substantially all of the assets of a business;

(17) Any sale, lease or rental of safe deposit facilities;

(18) Any sale, lease or rental of tangible personal property or a taxable service to an organization determined to be exempt from the tax imposed by this act on purchases under the procedures established in the Tax Exempt Organization Act of 1992;

(19) Any sale, lease or rental of tangible personal property or a taxable service by an organization determined to be exempt from the tax imposed by this act on sales under the procedures established in the Tax Exempt Organization Act of 1992;

(20) Any sale, lease or rental of durable medical equipment and oxygen by participating providers when the sale, lease or rental of said equipment or oxygen is paid or reimbursed in whole or in part by Medicaid or Medicare;

(21) any sale of ophthalmic materials, including without limitation, eyeglasses, frames, lenses, and contact lenses, by a licensed ophthalmologist or optometrist who sells such materials to patients in connection with the providing of professional services; and

(22) any sale of tangible personal property by a licensed undertaker or mortician who sells such property to customers in connection with the providing of services.

(b) The following items and services shall be exempt from the tax imposed by this act:

(1) Intangible property, meaning all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents, including, without limitation, the following:

a. All stock, shares, or interests in incorporated or unincorporated companies, business trusts, partnerships, and other entities carrying

on business or investment activity;

b. Beneficial interests in trusts and estates, without regard to the residence of the grantor or fiduciary;

c. All notes, bonds, debentures, accounts receivable, certificates of deposit, cashier's and certified checks, bills of exchange, drafts, and similar instruments, bank accounts, and other obligations for the payment of money; provided, however, that sales of accounts receivable are exempt from the tax imposed by this act only if such receivables arose from transactions which were themselves exempt from such tax or from transactions with respect to which such tax has already been collected by the seller.

d. Money (other than coins whose fair market value exceeds their intrinsic value);

e. Patents, copyrights, franchises;

f. Options, futures contracts, commodities contracts, certificates of interest in gold and other precious metals or gems, and similar financial instruments; and

g. All other classes and kinds of intangible property not otherwise enumerated;

(2) Any taxable service rendered by an employee to his or her employer, including a taxable service rendered by a statutory employee, as that term is defined in 26 U.S.C. § 3121(d), or by a real estate agent or direct seller, as those terms are defined in 26 U.S.C. § 3508. For purposes of this subdivision, tips and gratuities shall be deemed compensation received for services rendered to the employer;

(3) Any taxable service rendered pursuant to the terms of a contract for labor that is performed directly on tangible personal property in the course of producing such property for subsequent sale, lease or rental;

(4) Any taxable service rendered in connection with the painting, repair, reconditioning or conversion of ships, vessels, towing vessels, barges, drilling ships, rigs, seismic or geophysical vessels, commercial fishing vessels or other watercraft vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the state of Alabama department of conservation and natural resources;

(5) Any tangible personal property which enters into and becomes

an ingredient or component part of products produced by the purchaser of such tangible personal property for subsequent sale, lease, or rental, whether or not such tangible personal property is intended to become a component of the products produced for sale, lease, or rental. This exemption includes, without limitation, any tangible personal property purchased for use in packaging or preparing such purchaser's products for sale, lease, or rental;

(6) Any tangible personal property used or consumed or any taxable service rendered in connection with inseminating, planting, raising, growing, propagating, cultivating, threshing, spraying, harvesting, or producing agricultural products, including, without limitation, feed, fertilizer, herbicides, insecticides, and fungicides, antibiotics, hormones and hormone preparations, drugs, serums and vaccines, medicines or medications, vitamins, minerals and other nutrients and feed ingredients, tomato stakes and boxes, as well as seedlings, tree seedlings, shoots and plants;

(7) Forest tree seedlings and forest tree seed sold by the state, and *Lespedeza bicolor* and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state;

(8) Wood residue, coal, coke or natural gas for use or consumption by manufacturers, electric power companies, and transportation companies in the production of by-products, or in the generation of heat or power used in manufacturing tangible personal property for sale, or resale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale, or resale, or for the generation of motive power for transportation;

(9) All nuclear fuel assemblies, together with the nuclear materials contained therein, and all other nuclear material used or useful in the production of electricity and all assemblies containing ionizing radiation sources, together with the ionizing radiation sources contained therein, used or useful in medical treatment or scientific research;

(10) All devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction, or elimination of air or water pollution and all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction, or elimination of air or water pollution;

(11) All products subject to taxation under chapter 17 of title 40

of the Code of Alabama including, without limitation, gasoline, motor fuels (including natural gas and compressed natural gas), gasohol, liquefied petroleum gas and lubricating oil; and

(12) All medicine for human consumption or intake that is or will be dispensed by a licensed pharmacist pursuant to a prescription written by a licensed physician, or dispensed by a licensed physician, whether sold to a hospital, a physician, a patient, or a customer.

Section 7. Liability for tax.

(a) Where the seller is required by this act to collect the tax imposed hereunder, liability for such tax rests with the seller and arises at the time the purchaser transfers consideration to the seller in a transaction covered by this act. Where the seller adds the tax to the purchase price as a separately stated item, the tax shall be a debt from the purchaser to the seller until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other debts.

(b) If a sale of tangible personal property or a taxable service is subject to the tax imposed by this act and the seller is a person who is not required by this act to collect such tax, liability for such tax rests with the purchaser who uses the tangible personal property or taxable service in Alabama. Such liability arises at the earlier of: (1) the time the purchaser receives the tangible personal property or taxable service in Alabama or (2) the time the purchaser uses the tangible personal property or taxable service in Alabama. In such event, the purchaser shall pay the tax directly to the department of revenue in accordance with the provisions of section 16. Remittance of such tax to the department of revenue in accordance with the provisions of section 16 shall satisfy the purchaser's liability under this act.

(c) Where tangible personal property or a taxable service is withdrawn in a transaction covered by this act, liability for payment of the tax imposed by this act rests with the person who withdraws such property or taxable service and arises at the time of the withdrawal. The person who withdraws tangible personal property or a taxable service under this subsection shall pay the tax directly to the department of revenue in accordance with the provisions of section 14 or section 16, whichever is applicable. Remittance of the tax in accordance with the provisions of section 14 or 16 shall satisfy the liability of the person withdrawing the tangible personal property or taxable service under this act.

(d) If tangible personal property or a taxable service has been

purchased from an out of state seller and is used in Alabama, the person using such property or service shall be presumed to be liable for the tax imposed by this act unless such person can produce satisfactory evidence that the tax imposed by this act has been paid to a seller who has registered to collect and remit such tax under section 12.

Section 8. Collection and remittance of tax.

A seller who is required by this act to collect the tax imposed hereunder shall collect such tax from the purchaser at the time the seller receives consideration and shall remit the amount collected (even if it exceeds the tax due) to the department of revenue in accordance with the provisions of section 14. Remittance of such tax to the department of revenue in accordance with the provisions of such section shall satisfy the seller's liability under this act. The department of revenue may allow certain purchasers to purchase tangible personal property or a taxable service and to rent or lease tangible personal property without payment of the tax to the sellers thereof. Any purchaser who possesses a direct pay permit issued pursuant to this section must pay the tax imposed on such transactions directly to the department of revenue in accordance with section 14.

Section 9. When seller required to collect and remit tax.

(a) A seller of tangible personal property shall be required to collect and remit to the department of revenue the tax imposed by this act if it:

(1) maintains an office, warehouse, or other place of business in Alabama;

(2) has an employee, agent, independent contractor, or other representative conducting business in Alabama;

(3) owns real or tangible personal property in Alabama; or

(4) engages in the systematic exploitation of the Alabama market through:

a. advertisements placed in newspapers, magazines, or other printed media distributed in Alabama;

b. commercials played on radio or television stations that are transmitted into Alabama;

c. advertisements placed on billboards located in Alabama; or

d. regular deliveries of tangible personal property into Alabama by means of the seller's own equipment and employees.

(b) A seller of a taxable service shall be required to collect and remit to the department of revenue the tax imposed by this act if the taxable service is performed in Alabama.

Section 10. Separate stating of tax required; refund or assumption of tax by seller unlawful.

(a) Every seller who is required by this act to collect the tax imposed hereunder shall add the tax to the transaction price as a separately stated item. No seller may refund or offer to refund any part of the amount collected. No such seller may absorb or advertise directly or indirectly the absorption of any part of the tax imposed by this act, nor may such seller represent in any manner that the seller will relieve the purchaser of the payment of any part of such tax. The seller may, however, refund the tax collected on any transaction where the seller refunds the transaction price to the purchaser.

(b) Any seller who neglects, fails, or refuses to collect the tax by adding it to the transaction price as a separately stated item or who refunds, absorbs, or advertises the refund or absorption of the tax in violation of subsection (a) shall pay the tax on the gross receipts received in the transaction. The tax due under this section shall be remitted at the time and in the manner specified in section 14.

(c) Subsections (a) and (b) of this section shall not apply to the tax imposed by this act on the performance of street and highway construction.

Section 11. Credit for similar tax paid in another state.

If, at the time the liability for the tax imposed by this act arises, the person who is liable for the tax imposed by this act has paid or has become liable for and subsequently pays a tax similar to the tax imposed by this act to another state under a legal requirement of that state's law, such tax (to the extent it does not exceed the tax that Alabama would impose on the transaction) shall be allowed as a credit against the tax imposed by this act. The Commissioner of the department of revenue shall require such proof of payment of tax in another state as he deems necessary and proper. No credit shall be allowed for a similar tax paid to any state that does not allow a credit for payment of the tax imposed by this act.

Section 12. Registration of sellers required to collect tax.

(a) Every seller required by section 9 to collect and remit to the department of revenue the tax imposed by this act shall register with the department of revenue. Such registration shall be made on a form prescribed by the department of revenue containing such information as the department of revenue may require which is necessary to the administration, enforcement, and collection of the tax imposed by this act.

(b) A seller required to register with the department of revenue under subsection (a) and who transacts business in more than one county in this state shall be required to register only once. Upon request by such seller, the department of revenue shall provide each county and municipality in which a seller transacts business with a copy of the seller's registration for use in the administration and enforcement of the county and municipal transaction taxes, if any, imposed pursuant to Article 4 of this act.

Section 13. Violators may be enjoined from continuing in business.

A seller who is required by this act to collect and remit to the department of revenue the tax imposed hereunder and who fails to do so or to comply with the provisions of section 12 may be enjoined from continuing in business in this state until such time as the seller complies in full with the provisions of section 12 and the seller's obligation to collect and remit the tax imposed by this act.

Section 14. Monthly remittance of tax by sellers and certain purchasers; accompanying return required; use of consistent accounting method; extension of time to file return.

(a) Every seller who is required by this act to collect the tax imposed hereunder shall remit to the department of revenue the total amount collected as tax on sales by such seller (even if such amount exceeds the tax due). Every purchaser who is authorized to pay the tax directly to the department of revenue shall remit to the department of revenue the total amount due on taxable withdrawals. The remittance of tax required by this section shall be made to the department of revenue on or before the twentieth day of the month following the month in which the tax was collected or withdrawal occurred; provided, however, that every seller required by this act to collect the tax imposed hereunder whose average monthly state transaction tax liability was \$10,000.00 or more during the preceding calendar year shall make estimated payments to the department of revenue on or before the twentieth day of the month in which the liability occurs. Such estimated payments shall be made in

an amount equal to the lesser of two-thirds of the seller's actual state transaction tax liability for the same calendar month of the preceding calendar year or two-thirds of the seller's estimated state transaction tax liability for the current calendar month. Any outstanding credit or deficit arising from an overpayment or underpayment of the seller's actual state transaction tax liability for a calendar year shall be applied to either increase or reduce, as the case may be, the seller's monthly state transaction tax liability for the last month of that calendar year. Such liability shall be reported and paid by the seller not later than the twentieth day of the month next succeeding the month in which the tax accrues.

(b) Each monthly remittance of tax shall be accompanied by a return prepared on a form prescribed by the department of revenue. Such form shall contain such information as the department of revenue may require which is necessary to the administration, enforcement, and collection of the tax imposed by this act.

(c) Where a seller's total transaction tax liability does not exceed \$10 for any month, the seller may, with the consent of the department of revenue, make a quarterly remittance and return in lieu of the monthly remittance and return required above. Any such quarterly remittance and return shall be made on or before the twentieth day of the month following the end of the quarter in which the tax was collected.

(d) Sellers shall use a consistent method of accounting that clearly reflects gross receipts in determining the remittances of tax and preparing the returns required by this section.

(e) Upon a showing of good cause by the seller, the department of revenue may extend the time for filing a return required by this section for a period of up to 30 days.

Section 15. Collection discount for sellers.

Every seller who collects the tax imposed by this act shall be entitled to a fee. Such fee shall be payable to the seller in an amount equal to two percent of the tax reported by such seller on the return required by section 14 of this act. No seller shall be allowed a fee on any remittance of tax which is not made within the time period set forth in subsection (a) of section 14 of this act.

Section 16. Monthly remittance of tax by purchasers; accompanying return required; use of consistent accounting method; extension of time to file return.

(a) If, pursuant to section 9, the seller is not required to collect the tax on a transaction covered by this act, the purchaser shall remit the tax on such transaction directly to the department of revenue. The tax shall be remitted to the department of revenue on or before the twentieth day of the month following the end of the month in which liability for the tax arises.

(b) Each monthly remittance of tax shall be accompanied by a return prepared by the purchaser on a form prescribed by the department of revenue. Such form shall contain such information as the department of revenue may require which is necessary to the administration, enforcement, and collection of the tax imposed by this act.

(c) Purchasers shall use a consistent method of accounting that clearly reflects gross receipts in determining the remittances of tax and preparing the returns required by this section.

(d) Upon a showing of good cause by the purchaser, the department may extend the time for filing a return required by this section for a period of up to 30 days.

Section 17. Tax exemption certificates.

The department of revenue shall condition the allowance of an exemption set forth in section 6 of this act on the possession of an appropriate exemption certificate whenever administration, collection, or compliance will be enhanced by the use of such certificate. The department of revenue shall promulgate regulations governing the issuance of tax exemption certificates to eligible persons. The department of revenue shall prescribe the standards of eligibility for an exemption certificate. Such standards shall be based on objective, verifiable information such as that shown on the state or federal income tax returns filed by the applicant. The department of revenue shall also prescribe the record keeping requirements applicable to sellers with respect to such certificates. The department of revenue may prescribe a fee payable by applicants for exemption certificates. The amount of such fee shall be sufficient to offset the costs of administering the exemption certificate process.

ARTICLE 2

STATE TRANSACTION TAX ON SALES OF VEHICLES

Section 18. Imposition of state transaction tax on sales of vehicles.

There is hereby imposed a state transaction tax on any sale of a

vehicle which must be registered or licensed with the judge of probate of any county in this state at the rate of three percent of the gross receipts from such sale. Notwithstanding any provision of the Code of Alabama to the contrary, any boat on which transaction tax was not paid at the time of purchase to a seller required to collect the tax must be registered with the judge of probate.

Section 19. Subjects of taxation.

(a) The tax imposed by section 18 shall not apply to any sale of a vehicle in:

(1) a wholesale transaction; or

(2) a transaction subject to the tax imposed by section 4 of this act.

(b) The tax imposed by section 18 shall be subject to the definitions and exemptions set forth in Article 1 of this act except the exemption for casual sales provided in subdivision (a) (1) of section 6 of this act.

Section 20. Payment of tax.

The purchaser of a vehicle subject to the tax imposed by section 18 shall pay the tax at the time the purchaser registers the vehicle. The purchaser shall pay the tax to the tax collector of the county in which the vehicle is registered.

Section 21. Collection and remittance of tax.

The tax collector shall, after deducting the fee provided for in section 22 of this act, remit all revenue collected under the provisions of this Article 2 to the department of revenue within twenty days following the end of the month in which such taxes were collected.

Section 22. Fee for collecting tax.

For collecting the tax imposed by section 18, the tax collector shall be entitled to a fee in an amount equal to five percent of all revenue collected under the provisions of this Article 2 each month. No fee shall be allowed on any remittance of tax which is not made to the department of revenue within the time period set forth in section 21 of this act.

Section 23. Proof of payment of tax.

The judge of probate shall require such proof as he deems necessary and proper that the tax imposed by either section 4 or section 18 of this act has been paid before a license is issued or a vehicle is registered.

ARTICLE 3 DISTRIBUTION OF REVENUE

Section 24. Distribution of revenues.

The revenues collected by the department of revenue from the taxes imposed by Articles 1 and 2 of this act shall be distribution as follows:

(a) One-fifth of the proceeds from the transient accommodations tax levied by subsection (f) of section 4 of this act, after deduction of an agreed upon cost of collection between the counties involved and the department of revenue, such cost not to exceed five percent, shall be distributed in the following manner: fifty percent of said portion shall be distributed to the Alabama mountain lakes association to be used for the promotion of tourism and travel. The remaining fifty percent of said portion shall be paid to the respective counties for the promotion of tourism, recreation and conventions. Said money shall be controlled by the county commission unless local law provides otherwise.

(b) In addition, on the first day of each fiscal quarter there shall be paid to the department of human resources for a statewide, state-administered food stamp program, as authorized by the Food Stamp Act of 1964, Public Law 88-525, 88th Congress, and amendments thereto, an amount equal to five percent of the value of stamp benefits issued statewide in excess of the amount paid by recipients (bonus or free stamps) during the immediate prior fiscal quarter, which sum shall be paid quarterly to the department of human resources trust fund for administration of the food stamp program in conformity with rules and regulations promulgated by the United States department of agriculture and in conformity with sections 38-1-1 through 38-6-9. Such administrative funds shall be limited to and based on fiscal year 1976-77 administrative costs, normal inflationary increases and mandated administration requirements of the Alabama legislature and the United States department of agriculture. The department of human resources will not staff any county food stamp office at a level which exceeds the average staff-to-recipient ratios which existed in Alabama during fiscal year 1976-77. This restriction will apply in coordination with those provided hereinabove and, should conflict occur, the lesser amount of expenditure shall be required.

(c) In addition, such amount of the aforesaid revenues as may be necessary to pay the principal of and interest on the bonds of the Alabama School Authority issued pursuant to the provisions of Act No. 1277 enacted at the 1973 Regular Session of the Legislature, Act No. 1223 enacted at the 1975 Regular Session of the Legislature, Act No. 73 enacted at the 1975 Third Extraordinary Session of the Legislature, Act No. 79-41 enacted at the 1979 Extraordinary Session of the Legislature, and Act No. 90-280 enacted at the 1990 Regular Session of the Legislature are hereby pledged therefor and shall be allocated and paid out of the state treasury for such purpose to the extent other revenues heretofore pledged for such purposes shall be insufficient therefor, the aforesaid pledge for the benefit of said bonds to take priority on the basis of the date of the respective legislative authorizations made therefor.

(d) After sufficient revenues have been set aside to fund the distributions set forth in subsections (a), (b) and (c) of this section, all remaining revenues collected by the department from the taxes imposed by Articles 1 and 2 of this act shall be distributed as follows:

(1) For the fiscal year beginning in 1993, 1.40% to the counties and municipalities that received distributions of financial institution excise tax during the fiscal year beginning in 1992, such amount to be distributed in the proportions determined by averaging the proportion of the total financial institution excise tax each such county and municipality received during the fiscal years beginning in 1989, 1990, and 1991, 19.94% to the State General Fund, and the remainder to the Alabama Special Educational Trust Fund.

(2) For the fiscal year beginning in 1994, 21.79% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(3) For the fiscal year beginning in 1995, 22.35% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(4) For the fiscal year beginning in 1996, 23.35% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(5) For the fiscal year beginning in 1997 and each fiscal year thereafter, 1.27% to the counties that collected the shares tax imposed by section 70 of chapter 14 of title 40 of the Code of Alabama 1975, during the ad valorem tax year ending September 30, 1996, such amount to be distributed among such counties in such proportion as the average

amount of shares tax collected by each such county with respect to the ad valorem tax years beginning October 1 of 1994, 1995, and 1996 bears to the average amount of shares tax collected by all such counties with respect to such years, 23.62% to the State General Fund, and the remainder to the Alabama Special Educational Trust Fund.

ARTICLE 4. LOCAL TRANSACTION TAX

Section 25. Levy of local transaction taxes authorized.

(a) The governing body of a county or municipality within Alabama is authorized to impose by ordinance a tax on the transactions subject to taxation under this act only if (1) such tax is imposed on all such transactions and (2) such tax is identical to the state transaction tax in every respect except for rate of tax. No such governing body may impose a tax on any transaction which is exempt from taxation under this act.

(b) Subsection (a) of this section notwithstanding, no local transaction tax may be imposed on: (1) the sale of alcoholic beverages by the alcoholic beverage control board of the State of Alabama; of (2) the performance of street and highway construction.

(c) The governing body of a county or municipality shall not have the authority to impose any tax, whether denominated a transaction tax, sales tax, use tax, or gross receipts tax, that is substantially similar to the tax authorized by article 4 of this act in its rate, method of computation, or incidents of taxation, except as authorized by this section.

Section 26. Rate of tax. (a) Except as provided in subsection (f) of this section, the governing body of a county within Alabama is authorized to impose by ordinance the tax authorized by section 25 of this act at a rate of up to one percent. Except as provided in subsection (f) of this section, the governing body of a municipality within Alabama is authorized to impose by ordinance the tax authorized by section 25 of this act at percent or three percent, respectively, only as provided in subsections (c) and (d) of this section.

(b) A county within Alabama which has a sales, use, gross receipts, leasing or rental tax rate in effect on January 2, 1992, which exceeds one percent is not required to reduce such rate of tax. A municipality within Alabama which has a sales, use, gross receipts, leasing or rental tax rate in effect on January 2, 1992, which exceeds

three percent is not required to reduce such rate of tax. The governing body of such county or municipality may increase such rate of tax only as provided in subsections (c) and (d) of this section; provided, however, that should a county within Alabama which has a sales, use, gross receipts, leasing or rental tax rate in effect on January 2, 1992, which exceeds one percent, reduce such tax rate, such action shall not prevent said county from subsequently reestablishing the rate in effect on January 2, 1992 without a vote of the people; and, provided, further, that should a municipality within Alabama which has a sales, use, gross receipts, leasing or rental tax rate in effect on January 2, 1992, which exceeds three percent, reduce such tax rate, such action shall not prevent said municipality from subsequently reestablishing the rate in effect on January 2, 1992 without a vote of the people.

(c) The governing body of a county or municipality within Alabama may increase the rate of tax imposed under section 25 to a rate that exceeds the limits imposed by subsection (a) of this section if it determines that an emergency exists. No tax imposed under this subsection shall remain in effect for more than 12 months. If a tax has been imposed under this subsection, no further tax may be imposed under this subsection until five years have elapsed from the date the tax became effective.

(d) The governing body of a county or municipality within Alabama may increase the rate of tax imposed under section 25 to a rate that exceeds the limits imposed by subsection (a) of this section if it obtains approval of a majority of the qualified electors who vote in an election called for that purpose.

(e) The rate of a local transaction tax levied pursuant to the authority of section 25 of this act on the sale, use, withdrawal, lease or rental of a vehicle or of industrial or agricultural machinery shall not exceed one-half of one percent when imposed by the governing body of a county within Alabama, nor one percent when imposed by the governing body of a municipality within Alabama. Any county or municipality within Alabama which has a rate of tax on the sale, use, withdrawal, lease or rental of a vehicle or of industrial or agricultural machinery in effect on January 2, 1992 which exceeds the limitations of this section must reduce such rate of tax to comply with said limitations by January 1, 1996.

(f) The governing body of any county or municipality within Alabama is authorized to impose by ordinance the tax on the providing of transient accommodations authorized by section 25 of this act at any rate. The provisions of subsection (c) of section 25 of this act and of

subsections (a), (b), (c), (d), and (e) of this section shall not apply to any local transient accommodation tax levied pursuant to the authority of this subsection.

Section 27. Levy of tax outside corporate limits.

The governing body of any municipality within Alabama is hereby authorized to impose by ordinance the tax authorized by section 25 of this act within its police jurisdiction. The rate of such tax may not exceed one-half of the rate levied pursuant to the authority of section 25 of this act by such municipality within its corporate limits.

Section 28. Situs rule.

(a) For purposes of this Article, except as provided in subsections (b) and (c) of this section, any sale, lease, or rental of tangible personal property to a purchaser in Alabama, or any performance or rendering of a taxable service to a purchaser in Alabama is deemed to occur at the location where possession of the tangible personal property passes from seller to purchaser or at the location where the taxable service was performed.

(b) For purposes of this Article, any sale, lease, or rental of tangible personal property to a purchaser in Alabama, or any sale of a taxable service to a purchaser in Alabama who possesses a direct pay permit issued pursuant to the authority of section 8 of this act is deemed to occur at the place of delivery to the purchaser.

(c) Notwithstanding subsection (a) of this section, any sale, lease or rental of tangible personal property to a purchaser in Alabama by a seller whose business location is not within Alabama is deemed to occur at the place of delivery of the property to the purchaser.

Section 29. Administration of tax.

Any tax imposed under this Article shall be collected by the department of revenue unless the governing body of the county or municipality imposing the tax under this Article enters into an agreement with the department of revenue providing for (1) the exchange of information with the department of revenue and (2) procedures (including registration of tax payers, return requirements, refund claims, administrative and judicial appeals, statutes of limitations, interest, and penalties) that are consistent with this act and the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, in which event such governing body may provide for the collection of the tax by the

county or the municipality, as the case may be.

Section 30. Limitation on multiple taxes on transaction; credit for certain taxes paid.

(a) If a sale of tangible personal property or the rendering of a taxable service is subject to a local transaction tax imposed by a county pursuant to section 25 of this act, the tangible personal property or taxable service, when imported for use into another county in Alabama, shall not be subject to a local transaction tax imposed by such other county pursuant to section 25 of this act.

(b) If a sale of tangible personal property or taxable service is subject to a local transaction tax imposed by a municipality pursuant to section 25 of this act, the tangible personal property or taxable service, when imported for use into another municipality in Alabama, shall not be subject to a local transaction tax imposed by such other municipality pursuant to section 25 of this act.

(c) If, at the time the liability for a local transaction tax imposed by a county or municipality pursuant to section 25 of this act arises, the person who is liable for the tax imposed by such section has paid or has become liable for and subsequently pays a tax similar to a local transaction tax imposed pursuant to section 25 of this act to any jurisdiction located in another state, such tax (to the extent it does not exceed the local transaction tax the county or municipality would impose on the transaction) shall be allowed as a credit against a county or municipal transaction tax imposed pursuant to section 25 of this act. The person charged with the responsibility for collecting the local transaction tax imposed pursuant to section 25 of this act shall require such proof of payment of tax in such other jurisdiction as is deemed necessary and proper. No credit shall be allowed for a similar tax paid to any jurisdiction that does not allow a credit for payment of a local transaction tax imposed pursuant to section 25 of this act.

ARTICLE 5
COLLECTION AND DISTRIBUTION OF
LOCAL TRANSACTION TAX ON SALES OF VEHICLES

Section 31. Collection and remittance of local transaction tax on sales of vehicles.

(a) The tax collector shall collect the county and municipal transaction taxes imposed on sales of vehicles pursuant to section 25 of this act when such sales are made by (1) any person other than a li-

censed dealer, (2) a dealer doing business outside of the state of Alabama, or (3) a licensed dealer where municipal and county transaction taxes were not collected at the time of sale. The tax collector shall, after deducting the fee provided for in section 32 of this act, remit all revenue collected under the provisions of this Article 5 directly to the appropriate county or municipal recipient as otherwise provided by law. Such remittance shall be made to the appropriate county or municipality within twenty days following the end of the month in which such taxes were collected.

(b) The tax collector shall require, as proof of the purchase price of a vehicle purchased from a licensed dealer in this state, documentation of the price upon which any state, county or municipal transaction tax was paid and which reflects the amount of state, county or municipal transaction tax paid by the purchaser as well as such other evidence of the purchase price as the department of revenue may prescribe. All licensed dealers in this state shall furnish the purchaser of any vehicle documentation showing the amount and rate of state, county and municipal transaction tax collected by the dealer from the purchaser at the time of sale.

(c) The tax collector shall require, as proof of the purchase price of a vehicle from any person other than a dealer licensed in this state, the presentment of a sworn report by the purchaser reflecting the purchase price of such vehicle. Such report shall be presented to the tax collector on a form provided by the department of revenue and shall be accompanied by a properly executed bill of sale or such other satisfactory evidence as may be prescribed by the department of revenue.

(d) In lieu of the requirements of subsection (c) of this section, the purchaser may stipulate to the tax collector that the purchase price of a vehicle is equivalent to a standard value established by the department of revenue for such vehicle. The purchase price so stipulated is conclusively presumed to be the purchase price of such vehicle for all purposes under Articles 4 and 5 of this act.

Section 32. Fee for collecting tax.

For collecting a local transaction tax imposed pursuant to the authority of section 25 of this act, the tax collector shall be entitled to a fee in an amount equal to five percent of all revenue collected under the provisions of this Article 5 each month. No fee shall be allowed on any remittance of tax which is not made to the appropriate county or municipality within the time period set forth in section 31 of this act. In any county where the tax collector is paid on a salary basis, the tax

collector shall remit the fee provided for in this section to the county treasury, or to the official performing the duties of the county treasurer.

Section 33. Proof of payment of tax.

The judge of probate shall require such proof as is deemed necessary and proper that a local transaction tax imposed pursuant to the authority of section 25 of this act has been paid before a license is issued or a vehicle is registered.

ARTICLE 6.
CONFORMING AMENDMENTS

Section 34. Section 11-51-180, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-51-180.

"The state revenue department shall collect any municipal privilege license taxes levied or assessed by any city or town under the provisions of a municipal ordinance duly promulgated and adopted by the governing body of the city or town upon the request by resolution of the council or commission of such city or town and upon the filing with said department of a certified copy of the ordinance levying the tax, whenever such levy parallels the state levy except for the rate of the tax and is subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments and deductions as are applicable to the state transaction tax levied by section 4 of the Alabama Transaction Tax Act of 1992 sales and use taxes and the state tax on the rental of rooms, lodgings and accommodations as levied respectively by section 40-23-1, 40-23-2, 40-23-4, 40-23-6 through 40-23-32, 40-23-34 through 40-23-36, article 2 of act 23 of Title 40 of this Code and sections 40-26-1 through 40-26-20 except where inapplicable or where herein otherwise provided, including provisions for enforcement and collection of the taxes. Notwithstanding anything to the contrary herein, the provisions of this section shall not apply to any local transaction tax imposed by a governing body pursuant to the authority of section 25 of the Alabama Transaction Tax Act of 1992."

Section 35. Section 11-51-181, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-51-181.

"Such municipal taxes shall be collected by the state department of

revenue at the same time and along with the collection by the department of taxes levied and collected for the state under the respective provisions of ~~said sections 40-23-1, 40-23-2, 40-23-4, 40-23-6 through 40-23-32, 40-23-34 through 40-23-36, article 2 of act 23 of Title 40 of this Code and sections 40-26-1 through 40-26-20~~ the state transaction tax levied by section 4 of the Alabama Transaction Tax Act of 1992, and all reports required to be made to the commissioner of revenue under this division shall, on request made to the department of revenue, be made available for inspection by the governing body of the city or town or its designated agent at reasonable times during business hours."

Section 36. Section 11-51-182, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-51-182.

"The department of revenue shall prepare and distribute such reports, blank forms and other information as may be necessary to provide for collection of municipal taxes under this division, and shall have all the authority and duties under this division as it has in connection with the collection of the state transaction tax levied by section 4 of the Alabama Transaction Tax Act of 1992 ~~sales and use taxes provided for by sections 40-23-1, 40-23-2, 40-23-4, 40-23-6 through 40-23-32, 40-23-34 through 40-23-36 and article 2 of chapter 23 of Title 40 of this Code, and with the collection of the state tax on the rental of rooms, lodgings and accommodations provided for by said sections 40-26-1 through 40-26-20.~~"

Section 37. Section 11-100-3, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-100-3.

As used in this chapter, the following words and phrases shall have the following meanings respectively ascribed to them unless the context clearly indicates otherwise:

"(1) BONDS. Either general obligation bonds, limited obligation, or revenue bonds, or a combination thereof, issued after the effective date of this act by a city, county or entities or authorities thereof in connection with the financing, in whole or in part, of eligible facilities. The term "bonds" shall also refer to any bonds, warrants, or other certificates of indebtedness authorized under the laws of the state of Alabama.

"(2) CITY. Any city in this state.

"(3) COUNTY. Any county in this state.

"(4) AUTHORITY. Any authority created pursuant to act No. 547, H. 1176, 1965 Regular Session.

"(5) DELEGATE. A person attending a national or regional convention or meeting in this state.

"(6) ELIGIBLE FACILITIES. Any convention facilities owned by a city, county or entities or authorities thereof in which the bonds for the facilities are issued after the effective date hereof, or such facilities for which the construction, or substantial expansion, reconstruction, or renovation is completed after May 11, 1989.

"(7) ESTIMATED INVESTMENT MULTIPLIER. The number of times initial expenditures by delegates will be respent on additional goods and services in this state, as determined in section 11-100-4(h).

"(8) NATIONAL OR REGIONAL MEETING. A meeting, convention, show or other function which is intended primarily for delegates from outside the state. For a meeting to qualify as a regional or national meeting, it must meet the criteria as determined for a regional or national meetings by the international association of convention and visitors bureaus or as set by the state director of finance.

"(9) REVENUE BONDS. Bonds issued by a city, county or authority which are limited or special, rather than general obligations of the issuer and which are not payable from the proceeds of an ad valorem tax.

"(10) STATE ASSISTANCE PAYMENTS. Payments to a city, county or entities or authorities thereof, under this chapter.

"(11) CONVENTION FACILITIES. Any property, real, personal or mixed, which is necessary or desirable in connection with a convention or meeting center, or similar facility, including without limitation, auditoriums, exhibition halls, facilities for food preparation and serving, parking facilities, and administrative offices in connection therewith.

"(12) ~~STATE TRANSACTION LODGING TAX or STATE TRANSIENT OCCUPANCY TAX.~~ The tax levied and collected pursuant to ~~section 40-26-1~~ Article 1 of the Alabama Transaction Tax Act of 1992."

Section 38. Section 11-100-4, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-100-4.

"(a) Any city, county or entities or authorities thereof may apply to the state director of finance for state assistance payments for any eligible facilities. The city, county or entities or authorities thereof shall file an initial application with the director of finance, which shall be in writing and shall describe: (i) the eligible facilities; (ii) the need for said facilities or the benefit therefrom; and (iii) the financing thereof, including the principal and interest payments for the bonds.

"(b) The director of finance shall promptly review such initial application and shall notify the applicant of any additional information that may be necessary.

"(c) After reviewing the initial application and upon reasonable notice to the applicant, the director of finance shall hold a public hearing on the application and maintain an official record of such hearing. He shall give notice of the time, place and purpose of the public hearing by publication one time in a newspaper of general circulation within the boundaries of the applicant, not less than 10 days prior to the hearing.

"(d) Within 90 days after such public hearing, the director of finance shall: (i) determine whether the facilities described in the initial application are eligible facilities; (ii) notify the applicant of its determination; and (iii) if said facilities are determined to be eligible, approve such application and immediately certify the same to the governor and joint legislative council of the Alabama legislature.

"(e) After the initial application has been approved, the city, county or entities or authorities thereof must establish a base number of convention delegates which shall be computed by taking an annual average of convention delegates attending national and regional meetings in said city, county or the entity's or authority's region over the previous five-year period. For purposes of determining such base number, each county, city or entity or authority thereof is hereby authorized to require each hotel or motel to report quarterly to it the total number of convention delegates in attendance for any national or regional convention or meeting which utilizes 50 or more room nights per meeting. The city, county or entity or authority thereof shall then file an application with the director of finance which shall estimate: (i) the number of additional delegates over and above the base average number, who will patronize the eligible facilities during the year; (ii) their

estimated expenditures; (iii) the estimated additional state transaction lodging tax revenues to be derived as a result of the expenditures (taking into consideration the investment multiplier); (iv) the expected additional expense, if any, to the state; and (v) any other matters prescribed by the director of finance. The descriptions required by (i), (ii), and (iii) shall be supported by statistical surveys satisfactory to the director of finance.

"(f) The director of finance shall review all such annual applications, determine the amount of state assistance payments that would be required under such estimates, as determined in paragraph (i) of this section, and shall include in the proposed budget to the governor, a line item appropriation in such amount, and certify such amount to the state legislature, provided, however, that in no fiscal year shall the entire amount budgeted for all eligible facilities exceed \$3,000,000.

"(g) From the net proceeds of the state transaction transient occupancy tax proceeds levied pursuant to ~~section 40-26-1, the provisions of section 40-26-20 to the contrary notwithstanding,~~ the legislature shall appropriate annually such amount as it deems necessary and desirable to satisfy all such projected state assisted payments for the next fiscal year. In the first full fiscal year after May 11, 1989, this amount shall not exceed \$500,000; in the second fiscal year after May 11, 1989, this amount shall not exceed \$1,000,000; in the third fiscal year after May 11, 1989, this amount shall not exceed \$2,000,000; in the fourth fiscal year after May 11, 1989, this amount shall not exceed \$3,000,000; and in no subsequent fiscal year shall the amount budgeted ever exceed \$3,000,000. Such amount shall be credited to the convention facilities fund established pursuant to section 11-110-5.

"(h) Each city, county or entity or authority thereof that has filed an annual application for assistance payments for the current fiscal year will file a request for state assistance payments with the state department of finance within 30 days after the end of each quarter during said fiscal year. The quarterly request shall include the actual number of delegates that patronized eligible facilities during the preceding quarter, the average number of days attendance for such delegates, and signed documentation from an executive of each group or association attesting to the number of delegates and the average number of days attendance. The quarterly request shall also include the delegates' average expenditures, the delegates' total estimated expenditures, taking into consideration the investment multiplier, the total estimated additional state transaction lodging tax revenues generated in the amount of state assistance payments requested by the city, county, or entity or authority thereof for such quarter. The investment multiplier for each city, county or entity or authority thereof shall be determined by the director of

finance with due consideration given to the opinion of the international association of convention and visitor bureaus as to what the investment multiplier should be for such city, county or entity or authority thereof. The investment multiplier, as determined by the director of finance, shall not be greater than five.

"(i) The amount of any state assistance payments to which each city, county or entity or authority thereof having filed an annual application hereunder shall be entitled, shall be an amount equal to two-thirds of the total sum of additional state transaction ~~transient occupancy~~ tax revenue, if any, generated in connection with such city, county or entity's or authority's eligible facility for the preceding quarter, as determined in paragraph (h) of this section. The maximum amount of any city, county or entity's or authority's state assistance payments for any quarter shall be limited to 50% of the bond debt requirements, including principal and interest, for the quarter for which state assistance payments have been requested.

"(j) In any fiscal year in which approved state assistance payments exceed the maximum allowed under section 11-100-4(g), all participating cities, counties and entities or authorities thereof shall receive a pro rata share of the amount they would be due to receive otherwise hereunder. In the event state assistance payments are set aside in the convention facilities fund and are unclaimed at the end of the fiscal year, such remaining funds shall revert to the fund to which the taxes would have otherwise been originally deposited."

Section 39. Section 11-100-7, Code of Alabama (1975) is hereby amended to read as follows:

"Section 11-100-7.

"Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the State of Alabama or any of its revenues, either for the performance of the obligations of the state under this chapter or for the payment of any bonds. Nothing herein, or in any agreement entered into pursuant to this chapter, shall be construed to require the legislature to make any appropriation pursuant to this chapter. It is the intent of the legislature that any appropriation made pursuant to this chapter shall only be made from additional state transaction ~~lodging~~ tax generated by eligible convention facilities as provided herein and that nothing herein, or in any agreement entered into pursuant to this chapter, shall be construed to un earmark any funds currently being collected and deposited in the general fund pursuant to ~~Section 40-26-20.~~"

Section 40. Section 16-15-11, Code of Alabama (1975) is hereby amended to read as follows:

"Section 16-15-11.

"For the purpose of providing funds to enable the authority to pay at their respective maturities the principal of and interest on any bonds issued by it under the provisions of this chapter, and to accomplish the objects of its creation, there is hereby irrevocably pledged to such purpose and hereby appropriated such amount of money as may be necessary for such purpose out of the residue of the receipts from the excise tax known as the state transaction sales tax levied by ~~sections 40-23-1 through 40-23-38, section 4 of the Alabama Transaction Tax Act of 1992~~ after there shall have been taken therefrom the amounts necessary to meet all prior charges thereon, ~~including the appropriations for other than educational purposes made in Section 40-23-35 and such amounts as may be necessary to pay the principal of and the interest on the bonds of the State of Alabama issued under Amendment 117 to the Constitution of Alabama, said residue constituting that portion of the receipts from the said sales tax that is now required by law to be paid into the Alabama special educational trust fund. If the said residue of the said sales tax herein pledged and appropriated is insufficient to pay at their respective maturities the principal of and the interest on the bonds issued under the provisions of this chapter, there is hereby irrevocably pledged to the payment of said principal and interest and hereby appropriated to that purpose some much as may be necessary therefor of the residue of the receipts from the excise tax known as the use tax levied by Section 40-23-60 through 40-23-88, after there shall have been taken therefrom the amount necessary to meet the expenses of said department, said residue constituting that portion of the receipts from the said use tax that is now required by law to be paid into the Alabama special educational trust fund.~~ The moneys hereby appropriated and pledged will constitute a sinking fund for the purpose of paying the principal of and interest on the bonds of the authority."

Section 41. Section 16-16-11, Code of Alabama (1975) is hereby amended to read as follows:

"Section 16-16-11.

"(a) For the purpose of providing funds to enable the authority to pay at their respective maturities the principal of and interest on any bonds issued by it under the provisions of the chapter and to accomplish the objects of this chapter, there is hereby irrevocably pledged to such purpose and hereby appropriated such amount of money as may be nec-

essary for such purpose out of the residue of the receipts from the excise tax known as the state transaction sales tax levied by Sections 40-23-1 through 40-23-38, after there shall have been taken therefrom the amounts appropriated for other than educational purposes in Section 40-23-35 (which said residue constitutes that portion of the receipts from the said sales tax that is now required by law to be paid into the Alabama Special Educational Trust Fund), section 4 of the Alabama Transaction Tax Act of 1992, and after taking from the said residue amounts sufficient to meet all prior charges on the said residue including:

(1) Such amounts as may be necessary to pay the principal of and the interest on the bonds of the state of Alabama issued under amendment 117 to the Constitution of Alabama; and

(2) Such amounts as may be necessary to pay the principal of and the interest on the bonds of Alabama education authority authorized in Section 16-15-1 through 16-15-10.

~~"(b) If the said residue of the receipts from the said sales tax that remains after taking therefrom the amounts necessary to meet the said prior charges thereon, and that is herein pledged and appropriated, shall be insufficient to pay at their respective maturities the principal of the interest on the bonds issued under the provisions of this chapter, there is hereby irrevocably pledged to the payment of said principal and interest and hereby appropriated to that purpose so much as may be necessary therefor of the residue of the receipts from the excise tax known as the use tax levied by Sections 40-23-60 through 40-23-88, after there shall have been taken from said receipts the amount necessary to meet the expenses of the State Department of Revenue and collecting the same (which residue constitutes that portion of the receipts from the said use tax that is now required by law to be paid into the Alabama Special Educational Trust Fund), and after taking from the said residue such amounts as may be necessary to meet all prior charges of the said residue including:~~

~~(1) Such amounts as may be necessary to pay the principal of and the interest on the bonds of the State of Alabama issued under Amendment 117 to the Constitution of Alabama; and~~

~~(2) Such amounts as may be necessary to pay the principal of and the interest on the said bonds authorized in Section 16-15-1 through 16-15-10.~~

"(b) (c) All monies hereby appropriated and pledged shall constitute a sinking fund for the purpose of paying the principal of and the

interest on the bonds herein authorized.

"(c) (d) As security for the payment of the principal of and interest on the bonds issued under this chapter, the corporation is authorized to pledge the proceeds of the appropriation and pledge herein provided for."

Section 42. Section 40-12-4, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-12-4.

"(a) In order to provide funds for public school purposes, the governing body of each of the several counties in this state is hereby authorized by ordinance to levy and provide for the assessment and collection of franchise, excise and privilege license taxes with respect to privileges or receipts from privileges exercised in such county, which shall be in addition to any and all other county taxes heretofore or hereafter authorized by law in such county. Such governing body may, in its discretion, submit the question of levying any such tax to a vote of the the qualified electors of the county. If such governing body submits the question to the voters, then the governing body shall also provide for holding and canvassing the returns of the election and for giving notice thereof. All the proceeds from any tax levied pursuant to this section less the cost of collection thereof shall be used exclusively for public school purposes, including specifically and without limitation capital improvements and the payment of debt service on obligations issued therefor.

"(b) Notwithstanding anything to the contrary herein, said governing body may levy a tax based on gross receipts only in accordance with the provisions of section 25 of the Alabama Transaction Tax Act of 1992 ~~said governing body shall not levy any tax hereunder measured by gross receipts, except a sales or use tax which parallels, except for the rate of tax, that imposed by the state under this title. Any such sales or use tax on any automotive vehicle, truck trailer, trailer, semi-trailer or travel trailer required to be registered or licensed with the probate judge, where not collected by a licensed Alabama dealer at time of sale, shall be collected and fees paid in accordance with the provisions of sections 40-23-104 and 40-23-107, respectively. No such governing body shall levy any tax upon the privilege of engaging any business or profession unless such tax is levied uniformly and at the same rate against every person engaged in the pursuit of any business or profession within the county; except, that any tax levied hereunder upon the privilege of engaging in any business or profession may be measured by~~

the number of employees of such business or the number of persons engaged in the pursuit of such profession. In all counties having more than one school system, revenues collected under the provisions of this section shall be distributed within such county on the same basis as funds received by the county from the minimum program fund are distributed within the county."

Section 43. Section 40-12-6, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-12-6.

"In all cases where the governing body of any of the several counties requests by resolution for the administration and collection of such taxes by the state department of revenue, the administration and collection thereof shall be made in the manner and in accordance with the provisions of sections 11-51-180 through 11-51-185, in like manner as the same pertains to cities or towns as therein provided. Notwithstanding anything to the contrary herein, the provisions of this section shall not apply to any local transaction tax imposed by a governing body pursuant to the authority of section 25 of the Alabama Transaction Tax Act of 1992."

Section 44. Section 40-12-7, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-12-7.

"All such taxes collected by the department of revenue shall be collected and remitted to the governing bodies of the various counties in the manner as provided for the collection of taxes for cities or towns as provided in sections 11-51-180 through 11-51-185, and the department of revenue is authorized to charge the counties for collecting said taxes its actual cost, not to exceed five percent of the amount collected, and to do any and all things pertaining to the collection of said taxes for the various counties as said department is authorized to do in collecting taxes for cities and towns as provided in sections 11-51-180 through 11-51-185. Notwithstanding anything to the contrary herein, the provisions of this section shall not apply to any local transaction tax imposed by a governing body pursuant to the authority of section 25 of the Alabama Transaction Tax Act of 1992."

Section 45. Section 40-21-85, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-21-85.

"(a) The provisions of this article shall be administered and the tax herein levied shall be collected in accordance with the procedures set forth in the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act ~~Division 1 of article 1 of act 23 of this Title, for administering and collecting the tax therein levied, and for such purposes there are hereby incorporated into this article by reference the provisions of Sections 40-23-8 through 40-23-23, 40-23-25 and 40-23-27 through 40-23-32, together with the definitions applicable to said sections contained in Section 40-23-1; provided, that in the event of the repeal of such division, such repeal shall not operate to eliminate the tax collection procedures contained therein to the extent they are incorporated in this article by reference, unless the legislation providing for such repeal shall clearly indicate such result.~~ The taxes herein levied shall be due and payable as follows:

(1) Any taxpayer liable for taxes under the provisions of this subdivision whose average monthly tax liability was less than \$10,000.00 during the preceding calendar year shall remit such taxes in accordance with ~~section 40-23-7~~ the procedures set forth in Section 14 of the Alabama Transaction Tax Act of 1992 as said procedures apply to monthly state transaction tax liabilities of less than \$1,000.00.

(2) Any taxpayer liable for taxes under the provisions of this subdivision whose average monthly tax liability was \$10,000 or greater during the preceding calendar year shall make estimated payments to the revenue department on or before the 20th day of the month in which the liability occurred.

"(b) The amounts of the payment shall be at least equal to the taxpayer's actual tax liability for the same calendar month of the preceding year.

"(c) Any outstanding credit or deficit arising from the taxpayer's overpayment or underpayment of its final liability shall be applied to either increase or reduce, as the case may be, that month's final tax liability which shall be reported and paid not later than twentieth of the month next succeeding the month in which the tax accrues. The provision of ~~Section 40-23-7~~ Article 1 of the Alabama Transaction Tax Act of 1992 shall apply to the filing of the monthly tax liability report.

"(d) In those instances where a taxpayer due to divestiture compliance with a lawful order of a court of competent jurisdiction, or the sale of a portion of the business on which said tax is applicable,

where such divestiture compliance or sale reduces the gross revenues of the taxpayer, the commissioner of revenue shall determine for a period of 12 months following such divestiture compliance or sale the monthly estimated tax liability and shall consider among others, the financial historical data and the percentage of divestiture or sale of said business of the taxpayer. Following the 12-month period, taxes shall be remitted in accordance with subsection (c) of this Section.

"(c) In those instances where there is no preceding calendar year for purposes of determining the tax liability of any taxpayer, the commissioner of revenue shall determine for a period of 12 months the monthly estimated tax liability for the taxpayer. Following the 12-month period, taxes shall be remitted in accordance with subsection (c) of this Section."

Section 46. Section 40-21-106, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-21-106.

~~"The tax herein levied shall be collected in accordance with the procedures set forth in the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act. for collecting the use tax described in article 2 of chapter 23 of this Title, and for that purpose there are hereby incorporated into this article by reference the provisions of Section 40-23-68 through 40-23-78, 40-23-80 through 40-23-84 and 40-23-86 through 40-23-88; provided, that whenever in said provisions the words "this article" shall appear, the same for the purposes of this article shall be construed to mean "this article"; provided further, that wherever in said provisions reference shall be made to March 1, 1939, the same for the purposes of this article shall be construed to mean September 1, 1969; provided further, that wherever in said provisions reference shall be made to June 30, 1939, the same shall for the purposes of this article mean that certain day one calendar month subsequent to September 1, 1969; provided further, that none of the said provisions shall apply to the United States of America or to any agency or department of the United States of America; provided, further, that the tax herein levied shall be collected monthly, and all reports and records respecting the said tax herein levied shall be made on a monthly basis, and, to that end, wherever in said provisions the word "quarterly" shall appear, the same for the purpose of this article shall be construed to mean "monthly"; and wherever in said provisions the words "three months" shall appear, the same for the purposes of this article shall be construed to mean "one month." "~~

Section 47. Section 40-21-122, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-21-122.

"There are hereby specifically excluded from the gross receipts or gross sales of a cellular provider, upon which the tax herein levied is calculated, all portions thereof derived from the following:

(1) The furnishing of cellular telephone services which the State of Alabama is prohibited from taxing under the constitution or laws of the United States of America or the constitution of the state of Alabama;

(2) The furnishing of cellular telephone services which are otherwise taxed under the provisions of ~~Sections 40-23-1 through 40-23-36~~ Article 1 of the Alabama Transaction Tax Act of 1992; and

(3) Wholesale sales."

Section 48. Section 40-29-73, Code of Alabama (1975) is hereby amended to read as follows:

"Section 40-29-73.

"(a) General rule. - Any person required to collect, truthfully account for, and/or pay over any tax imposed by sections 40-17-2, 40-17-220, 40-18-71, 40-21-82, 4 of the Alabama Transaction Tax Act of 1992 ~~40-23-2, 40-23-61, 40-26-1~~ and any other local transaction sales, use, and gross receipts taxes collected by the state department of revenue who willfully fails to collect such tax, or truthfully account for, and/or pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for a penalty up to the total amount of the tax evaded, or not collected, or not accounted for and paid over.

"(b) Extension of period of collection where bond is filed.

"(1) IN GENERAL. - If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person:

a. Pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty;

b. files a claim for refund of the amount so paid; and

c. furnishes a bond which meets the requirements of subdivision

(3);

No levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in subdivision (2).

"(2) **SUIT MUST BE BROUGHT TO DETERMINE LIABILITY FOR PENALTY.** - If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in subdivision (1) fails to begin a proceeding in the appropriate court of the determination of his liability for such penalty, subdivision (1) shall cease to apply with respect to such penalty, effective on the day following the close of the thirty-day period referred to in this subdivision.

"(3) **BOND.** - The bond referred to subdivision (1) shall be in such form and with such sureties as the commissioner may by regulations prescribe and shall be in an amount equal to one and one-half times the amount of excess of the penalty assessed over the payment described in subdivision (1).

"(4) **SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.** - The running of the period of limitations provided in section 40-29-50 on the collection by levy or by a proceeding in court in respect of any penalty described in subdivision (1) shall be suspended for the period during which the commissioner is prohibited from collecting by levy or a proceeding in court.

"(5) **JEOPARDY COLLECTION.** - If the commissioner makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty."

Section 49. Sections 11-51-200 through 11-51-207, Code of Alabama (1975) are hereby repealed.

Section 50. Section 34-27-65, Code of Alabama (1975) is hereby repealed.

Section 51. Sections 40-12-220 through 40-12-227, Code of Alabama (1975) are hereby repealed.

Section 52. Sections 40-23-1 through 40-23-121, Code of Alabama (1975) are hereby repealed.

Section 53. Sections 40-26-1 through 40-26-21, Code of Alabama (1975) are hereby repealed.

Section 54. **Severability.** The provisions of this act are sev-

erable. If any clause, sentence, paragraph, section or part of this act is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the remainder of this act. The effect of any such declaration shall be confined to the clause, sentence, paragraph, section, or part of this act which is declared invalid or unconstitutional.

Section 55. Effect of repeal of prior acts. The repeal of a prior act by this act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act, before its repeal.

Section 56. Effective date. (a) this act shall become effective for all taxable years or periods beginning after December 31, 1992, if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law;

(b) Notwithstanding subsection (a), the provisions of this act shall be effective with respect to the liability of organizations described in 26 U.S.C. § 501(c) (3) for sales, use, and leasing of tangible personal property taxes only for years beginning after December 31, 1993: and, provided, further, that the provisions of law in effect on December 31, 1993, shall apply in determining such liability before January 1, 1994.

(c) Notwithstanding subsection (a), the provisions of this act shall not apply, and the provisions of law in effect on December 31, 1992, shall apply in determining the liability for leasing of tangible personal property taxes with respect to property subject to leases entered into before January 1, 1993.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 245, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 245

Amend the substitute for H.B. 245 on Page 7, line 33, by deleting "three percent" and adding in lieu thereof the following: "two and one-half percent."

Further amend on Page 22, Lines 21-22, by deleting "three percent" and adding in lieu thereof the following: "two and one-half percent."

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 2 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page 12, Line 25, by inserting the following subparagraph before paragraph (b):

"(23) Any sale to the governing body of any agency or instrumentality of any county or municipality within the state of Alabama, other than any sale to such an agency or instrumentality of property that shall immediately thereafter become or at the time of such sale is intended or expected by the governing board of such agency or instrumentality thereafter to become property treated as owned for federal income tax purposes by any individual, partnership or corporation organized for profit even though title to such property may continue to be held by such agency or instrumentality following such sale."

MOTION TO RECONSIDER LOST

Senator Amari moved that the Senate reconsider the vote by which the Committee amendment No. 1 to the substitute for the Bill, HB 245, was adopted, which motion was lost.

Yeas 11 Nays 13
Abstaining 1

Yeas:

Senators:

Amari, Bedsole, Bennett, deGraffenried, Floyd, Foshee, Langford,
Lindsey, Little, Owens, and Parsons -11

Nays:

Senators:

Bailey, Barron, Bolling, Denton, Dixon, Figures, Hale, Lipscomb,
Mitchell, Mitchem, Smith (B), Waggoner, and Windom -13

Abstaining: Senator Preuit

- 1

FURTHER CONSIDERATION OF HB 245

The Senate proceeded to further consideration of the Bill, HB 245, as amended. The question was on the Committee amendment No. 2.

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On motion of Senator Parsons, the Rules were suspended and further consideration of the Bill, HB 245, and pending substitute and amendment, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Waggoner, B.I.R., HB 281, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Campbell, deGraffenried, Ellis, Figures, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Parsons, and Waggoner

-18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

H. 281. To hereby repeal the statutory earmarking of certain state revenue sources.

was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 281, to-wit:

SUBSTITUTE FOR HB 281

**A BILL
TO BE ENTITLED
AN ACT**

To hereby repeal the statutory earmarking of certain state revenue sources.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. All state revenue pledged, committed, or earmarked for a specific fund, purpose, or function by state statute, resolution, rule or regulation is hereby unearmarked and the provisions earmarking such revenue are hereby repealed and rescinded to the extent necessary to effectuate the provisions of this act. Such revenue shall hereafter accrue

to the general fund or funds of the state of Alabama to be available for appropriation by the Legislature for general governmental and educational purposes.

Provided further, the foregoing unearmarking provisions of this amendment shall not apply to any fees, excises, or license taxes levied on gasoline and motor fuels or any other taxes, fees, revenues, or appropriations currently pledged, committed or earmarked for the cost of construction, reconstruction, maintenance and repair of public highways and bridges, costs of highway rights-of-way, payment of highway obligations, the cost of traffic regulation, and the expense of enforcing state traffic and motor vehicle laws.

Provided further, the foregoing provisions providing for unearmarking shall not apply to license fees levied on members of professional occupations and earmarked for the regulation of that occupation by a regulatory board specifically established for that purpose. However, except as otherwise provided in this amendment, state revenue pledged or earmarked for the benefit of agencies that perform quasi-regulatory functions or state regulatory agencies with broad and general regulatory authority is hereby unearmarked and shall accrue to the general fund or funds of the state of Alabama.

Provided further, any revenue pledged for the payment of debt service on bonds issued by the state of Alabama or public corporations or authorities created by the state of Alabama for the purpose of issuing such bonds shall remain inviolate and pledged for such purpose until such time as the outstanding bonds are retired. Nothing in this amendment shall be construed in such a way as to limit the authority of the Legislature to authorize the issuance of revenue bonds and pledge a source of revenue for the payment of debt service on such authorized bonds.

Provided further, that the unearmarking provisions of this amendment shall not apply to local revenue or the proceeds of state-imposed taxes that are currently allocated to local governments.

Provided further, the foregoing unearmarking provisions of this amendment shall not apply to revenue accruing to the State Banking Department, Alabama State Docks, the Securities Commission, the Public Service Commission, the inventory fund of the Alcoholic Beverage Control Board, the Department of Corrections Industry Fund, the Children's Trust Fund, the funds of the Domestic Violence Shelter Facilities, the funds of the Office of Prosecution Services, the funds of District Attorneys, the Crime Victims' Compensation Commission Fund,

revolving funds within the Department of Finance, the Unemployment Compensation Fund, State Parks Revolving Fund, the Underground Storage Tank Trust Fund within the Department of Environmental Management, the Military Department Billeting Revolving Fund, the Alabama Health Care Trust Fund, all funds of the division of risk management of the department of finance, the funds of the State Employees Insurance Board, the funds of the Public Education Employees Insurance Board, the Wallace-Folsom Prepaid College Affordable Tuition Program Fund, Shipping Point Inspection Fund, the Probationers' Upkeep Fund, the Veterans' Home Trust Fund, the General Liability Trust Fund administered within the Department of Finance, the funds of any and all public corporations or authorities created by the State of Alabama, the Supercomputer Revolving Fund, the revenue generated by the Industries for the Blind Program under the Alabama Institute for the Deaf and Blind or the revenue generated by donation tax refund voluntary check-offs listed on the Alabama state income tax return.

Provided further, the foregoing unearmarking provisions of this amendment shall not apply to revenue accruing to educational entities from gifts, grants, local sources, tuition, fees, auxiliary enterprises, and restricted funds.

Provided further, the foregoing unearmarking provisions shall not apply to the revenue currently earmarked to the Alabama Special Educational Trust Fund.

Provided further, the foregoing unearmarking provisions shall not include any reimbursement tendered to a state agency in payment for the cost of a service provided by such agency.

Section 2. Revenues currently earmarked to the state agencies or funds listed in this section shall be unearmarked provided, however, that these agencies shall receive not less than the dollar amount of state funding from sources previously earmarked specifically for these agencies than they receive in the 1992 fiscal year during the fiscal year 1993. Agencies or funds subject to the provisions of this section are the Department of Human Resources, the Department of Mental Health and Mental Retardation, Department of Public Health, the Alabama Forestry Commission Fund, Certificate of Need fees, Secretary of State UCC & Corporate Fund, and the Department of Revenue.

Section 3. Nothing in this amendment shall be construed to restrict the obligations of the Governor or of the Department of Finance of the state of Alabama as set forth in section 90 of chapter 4 of title 41

of the Code of Alabama 1975.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective October 1, 1993 only if House Bill 252 as proposed in the 1992 Regular Session is ratified by the people as required by law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 281, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 281

Amend the substitute for House Bill 281 on page 2, line 23, by adding after the words "the Children's Trust Fund," the following: "the Alcohol and Drug Abuse Court Referral Trust Fund, the Indigent Offender Alcohol and Drug Treatment Trust Fund;".

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 2 to the substitute, as amended, for the Bill, HB 281, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED,
FOR HB 281**

Amend the substitute, as amended, for House Bill 281 on page 2, line 27, after the word and punctuation "Finance," by inserting the following: "revolving funds within the Department of Insurance."

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the substitute, as amended, for the Bill, HB 281, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE, AS AMENDED,
FOR HB 281**

Amend the substitute, as amended, for House Bill 281 on page 2,

line 23, by adding after the words "the Children's Trust Fund," the following: "any library or administrative fund of the Judicial Branch,".

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 4 to the substitute, as amended, for the Bill, HB 281, to-wit:

**AMENDMENT NO. 4 TO SUBSTITUTE, AS AMENDED,
FOR HB 281**

Amend the substitute, as amended, for House Bill 281 on page 2, line 28, after the words "Revolving Fund," by adding the following: "the Alabama Forestry Commission Fund,".

Further amend the substitute, as amended, for House Bill 281 on page 3, line 27, by deleting the words "the Alabama Forestry Commission Fund,".

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Amari, Bedsole, Bennett, deGraffenried, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Lindsey, Lipscomb, Mitchell, Owens, Smith (B), Waggoner, and Windom -18

Nays:

- 0

Senator Waggoner offered the following amendment to the Bill, HB 281, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 281, AS AMENDED

Amend House Bill 281, as amended, on page 2, line 20 after the word "Department," by inserting the following:

"the Alabama Credit Union Administration,"

Which was adopted.

Yeas 17 Nays 0
Abstaining 1

Yeas:

Senators:

Bedsole, Bennett, Corbett, deGraffenried, Ellis, Floyd, Foshee, Hale, Horn, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), and Waggoner -17

Nays:

- 0

Abstaining: Senator Figures

- 1

Senator Foshee offered the following amendment to the Bill, HB 281, as amended by the substitute, as amended, to-wit:

AMENDMENT TO HB 281, AS AMENDED

Page 1, line 29, delete the period (.) and insert following the word "laws" the following:

; nor shall the foregoing unearmarking provisions apply to any revenue source designated for the department of revenue to cover its costs of collection and administration of the state taxation system provided such revenue sources are specifically appropriated to the department by the Legislature under the Budget Management Act.

Page 3, line 28, between the comma (,) following the word "fees" and the word "Secretary" insert the word: and

further, delete the comma (,) following the word "Fund" and delete the words "and the Department of Revenue" on page 3, line 29.

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Corbett, deGraffenried, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Owens, Preuitt, Smith (B), and Waggoner -19

Nays:

- 0

And said Bill, HB 281, as amended by the substitute, as amended, was read a third time at length and passed.

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Yeas 17 Nays 10

Yeas:

Senators:

Bailey, Bennett, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, and Waggoner -17

Nays:

Senators:

Barron, Bedsole, Foshee, Hale, Little, Mitchem, Preuit, Sanders, Smith (B), and Windom -10

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. McDowell, Rogers (J), and McClain (With Notice and Proof):

H. 415. Relating to Jefferson County; fixing the salary of the Deputy Probate Judge.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 415, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Venable (With Notice and Proof):

H. 600. Providing the Sheriff of Coosa County with a temporary additional expense allowance that shall expire on a certain date; and increasing the Sheriff's compensation at the commencement of the next term of office.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 600, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Powell (With Notice and Proof):

H. 670. Relating to the Autauga County Commission; to reorganize the county commission into five single-member districts and describe the boundaries of those districts; to provide for the election of a chair from among the commissioners to serve at the pleasure of the commission; to remove the Judge of Probate as chair and as a member of the county commission; to provide the salaries of the commissioners and the chair, to provide that the county highway department shall be operated on the basis of a unit system under the supervision of the county engineer, and to repeal conflicting laws, specifically Act No. 84-394, H. 925, Regular Session 1984.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 670, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 415 - to the Committee on Local Legislation No. 2

HB's 600 and 670 - to the Committee on Local Legislation No. 1

MOTION TO RECONSIDER LOST

Senator Bailey moved that the Senate reconsider the vote by which the Bill, HB 281, was passed.

On motion of Senator Waggoner, said motion to reconsider was laid on the table.

BUDGET ISOLATION RESOLUTION

Senator Dial, B.I.R., HB 228, adopted.

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Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, deGraffenried, Dial, Dixon, Ellis, Floyd, Foshee, Horn, Lindsey, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom -22

Nays:

Senators:

Amari and Langford - 2

BILLS ON THIRD READING RESUMED

THE BILL:

H. 228. To amend Sections 16-47-30, 16-48-5, 16-49-20, 16-50-20, 16-51-3, 16-52-3, 16-53-3, 16-54-2, 16-55-2, 16-55-5, and 16-56-3, and to repeal Section 16-55-5 of the Code of Alabama 1975, relating to boards of trustees of certain public colleges and universities in the State of Alabama to provide for classes in trusteeship for members of boards of trustees.

was read a third time at length and passed.

Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Ellis, Figures, Floyd, Ghee, Hilliard, Horn, Langford, Lindsey, Little, Mitchem, Owens, Parsons, Sanders, Smith (B), Waggoner, Wilson, and Windom -26

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Bolling, B.I.R., HB 244, adopted.

Yeas 19 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Ellis, Floyd, Ghee, Langford, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Waggoner, and Windom -19

Nays:

Senators:

Amari and Mitchem - 2

BILLS ON THIRD READING RESUMED**THE BILL:**

H. 244. To create the Intangible Property Tax Act of 1992; to provide for the levy and disposition of a tax on intangible property with certain exceptions; and to repeal sections 40-24-1 through 40-24-8, inclusive, Code of Alabama 1975.

was taken up.

The Standing Committee on Finance and Taxation reported the following amendment to the Bill, HB 244, to-wit:

AMENDMENT TO HB 244

Amend House Bill 244 on page 1, line 40, by deleting the words "certificates of deposit,".

Further amend House Bill 244 on page 2, line 30, by adding immediately after the word "States", the words "or its possessions".

Further amend House Bill 244 on page 4, line 8, by changing the paragraph designation "(g)" to the letter "(h)".

Further amend House Bill 244 on page 4, line 9, by adding the following as a new paragraph: "(i) certificates of deposit".

Senator Bolling moved that said amendment be laid on the table, which motion was lost.

Yeas 14 Nays 15

Yeas:

Senators:

Amari, Bennett, Bolling, Campbell, Corbett, deGraffenried, Ellis, Floyd, Langford, Lindsey, Little, Owens, Parsons, and Preuit

-14

Nays:

Senators:

Bailey, Barron, Bedsole, Denton, Dixon, Figures, Foshee, Hale, Lipscomb, Mitchell, Mitchem, Sanders, Waggoner, Wilson, and Windom

-15

And said amendment was then adopted.

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Yeas 15 Nays 14

Yeas:

Senators:

Bailey, Barron, Bedsole, Denton, Dial, Dixon, Figures, Foshee, Ghee, Hale, Lipscomb, Mitchell, Mitchem, Waggoner, and Windom -15

Nays:

Senators:

Amari, Bennett, Bolling, Campbell, Corbett, deGraffenried, Ellis, Floyd, Langford, Lindsey, Little, Owens, Preuitt, and Sanders -14

The Standing Committee on Finance and Taxation then reported the following amendment No. 2 to the Bill, HB 244, as amended, to-wit:

AMENDMENT NO. 2 TO HB 244, AS AMENDED

Amend House Bill 244, as amended, on page 1, line 27, by deleting the word "indicated" and inserting in lieu thereof the word "indicates".

Further amend House Bill 244, as amended, on page 2, line 26, by deleting the word "section" and inserting in lieu thereof the word "sections".

Further amend on page 2, line 30, after the word "States" by adding the words "and its territories and possessions".

Further amend House Bill 244, as amended, on page 6, line 28, after the word "act." by adding a new subdivision (11) to read as follows: "(11) If a corporation the shares of which or a partnership interests in which are listed on any public stock exchange or are regularly traded over-the-counter owns property subject to ad valorem taxation in Alabama the net book value of which exceeds twenty-five percent of the net book value of all the corporation's or partnership's property, then the value of the shares or partnership interests shall be reduced by an amount that bears the same ratio to the value of the shares or partnership interests determined under subdivision (b)(2) of this section as the net book value of the corporation's or partnership's real and tangible personal property subject to ad valorem taxation in Alabama bears to the net book value of all the corporation's or partnership's property.

Further amend House Bill 244, as amended, on page 8, line 15, after the words "section 6" by adding the words "or unless the fair market value of the shares are determined under section 6(b)(11) of this act."

Further amend House Bill 244, as amended, on page 8, line 30, after the words "section 6" by adding the words "or unless the fair market value of the interests are determined under section 6(b)(11) of this act."

Which was adopted.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens, Preuit, Waggoner, and Windom -23

Nay: Senator Ghee

- 1

Senator Bolling offered the following amendment to the Bill, HB 244, as amended, to-wit:

AMENDMENT TO HB 244, AS AMENDED

Amend House Bill, 244, as amended, as follows:

Page 2, line 8, insert a new paragraph g. to read as follows:

"g. Insurance and annuity policies and contracts." and renumber the following paragraphs accordingly.

Page 4, line 8, delete.

Page 6, lines 20 through 23, insert a new subdivision (10) to read as follows:

"(10) The value of an insurance contract shall be the cash surrender value of the policy. The value of an annuity shall be determined under Treasury Regulations § 20.2031-7, as amended from time to time." and renumber the following subdivisions accordingly.

On motion of Senator Bailey, said amendment was laid on the table.

Yeas 17 Nays 9

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Corbett, deGraffenried, Dial, Dixon,

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**Figures, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders,
and Windom** -17

Nays:

Senators:

**Bedsole, Bolling, Campbell, Denton, Ellis, Floyd, Ghee, Langford, and
Lindsey** - 9

Senator Bolling then offered the following amendment No. 2, to the Bill, HB 244, as amended, to-wit:

AMENDMENT NO. 2 TO HB 244, AS AMENDED

Amend House Bill 244, as amended, on page 9 by deleting lines 1 through 27 in their entirety and inserting in lieu thereof the following:

"Section 10. Revenues collected by the department of revenue pursuant to the provisions of this act shall be deposited in the state treasury and shall be expended as follows:"

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Waggoner, and Windom -24

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 265. RELATIVE TO MEETING DAYS.

**GREG PAPPAS,
Clerk.**

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the

Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 228. To amend Sections 16-47-30, 16-48-5, 16-49-20, 16-50-20, 16-51-3, 16-52-3, 16-53-3, 16-54-2, 16-55-2, 16-55-5, and 16-56-3, and to repeal Section 16-55-5 of the Code of Alabama 1975, relating to boards of trustees of certain public colleges and universities in the State of Alabama to provide for classes in trusteeship for members of boards of trustees.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

FURTHER CONSIDERATION OF HB 244

The Senate proceeded to further consideration of the Bill, HB 244, as amended.

Senator Floyd offered the following amendment to the Bill, HB 244, as amended, to-wit:

AMENDMENT TO HB 244, AS AMENDED

Amend House Bill 244, as amended, on page 3 by deleting lines 26-31 in their entirety and renumbering all subsequent sub-sections accordingly.

Further amend on page 1, line 40 after the word "receivable," by inserting the following:

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"cash and cash equivalents, certificates of deposits, checks, bank accounts, demand deposits, money market funds, money market mutual funds,".

RECESS

At 6:30 P.M., on motion of Senator Parsons, the Senate took a recess until 8 o'clock P.M.

At 8 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF HB 244

The Senate proceeded to further consideration of the Bill, HB 244, as amended. The question was on the Floyd amendment.

On motion of Senator deGraffenried, said amendment was laid on the table.

Yeas 19 Nays 10

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, deGraffenried, Denton, Dial, Dixon, Figures, Foshee, Hale, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Waggoner, and Windom

-19

Nays:

Senators:

Bennett, Bolling, Corbett, Ellis, Hilliard, Horn, Langford, Lindsey, Parsons, and Sanders

-10

And said Bill, HB 244, as amended, was read a third at length and lost.

Yeas 10 Nays 18

Yeas:

Senators:

Bennett, Bolling, Denton, Figures, Hilliard, Lindsey, Little, Owens, Parsons, and Sanders

-10

Nays:

Senators:

Amari, Bailey, Barron, Bedsole, Corbett, deGraffenried, Dial, Dixon,

Ellis, Foshee, Ghee, Hale, Langford, Lipscomb, Mitchell, Mitchem, Waggoner, and Windom -18

FURTHER CONSIDERATION OF HB 240

The Senate proceeded to further consideration of the Bill, HB 240.

The Standing Committee on Finance and Taxation reported the following amendment to the Bill, HB 240, to-wit:

AMENDMENT TO HB 240

Amend House Bill 240, on Page 11, by deleting Line 12 in its entirety and inserting in lieu thereof the following:

"of all retirement income."

Senator Bailey moved that said amendment be laid on the table, which motion was lost.

Yeas 3 Nays 27

Yeas:

Senators:

Bailey, deGraffenried, and Figures

- 3

Nays:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Waggoner, Wilson, and Windom -27

And said amendment was then adopted.

Yeas 29 Nays 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, and Windom -29

Nay: Senator Lindsey

- 1

The Standing Committee on Finance and Taxation then reported

the following amendment No. 2, to the Bill, HB 240, as amended, to-wit:

AMENDMENT NO. 2 TO HB 240, AS AMENDED

Amend House Bill 240, as amended, as follows:

Page 1, lines 19 to 21, delete the language following the words "Sections 40-18-1" and preceding the words "through 40-18-85".

Page 2, line 3, after the word "income" insert the word "tax".

Page 2, line 32, after the word "commissioner" insert the words "of revenue".

Page 4, lines 21 to 24, delete the language following "Private use property." and insert the following: "Property which is treated as owned for federal income tax purposes by an individual, partnership, or corporation organized for profit even though title may be held by a public authority or a municipal or county government."

Page 6, line 5, after the word "income" insert the word "properly."

Page 6, line 7, after the word "of" and before the word "net" delete the word "the" and insert the word "such".

Page 6, line 8, delete the words "shown on the return".

Page 6, line 9, after the word "of" and before the word "net" delete the word "the" and insert the word "such".

Page 6, line 9, delete the words "shown on the return".

Page 6, line 12, delete "(a)".

Page 6, line 16, delete the word "deductions" and insert the word "subtractions".

Page 7, line 3, after the word "deductible" insert the words "for federal income tax purposes".

Page 7, line 6, after the word "deductible" insert the words "for federal income tax purposes".

Page 7, line 9, after the word "deductible" insert the words "for federal income tax purposes".

Page 7, line 16, after the word "possessions" insert the words "or its agencies and instrumentalities".

Page 8, line 15, delete the period "." and insert a colon ":".

Page 8, line 17, after the word "federal" delete the word "income".

Page 10, line 30, delete the word "taxable" and insert the words "adjusted gross".

Page 11, line 33, after the "by" insert a colon ":".

Page 12, line 27, delete the language following "sections 7 and 8" and insert a period "." and add the following sentences: "A nonresident beneficiary shall include in net income only the amount determined under this section that is allocated and apportioned to Alabama under section 51. A resident beneficiary shall not be allowed to allocate or apportion the amount determined under this section."

Page 13, line 26, delete the word "had" and insert in its place the word "has".

Page 14, line 1, after the word "payment" insert the words "(as defined in section 35(c) of this act)".

Page 15, line 7, delete the word "value" and insert in its place the word "amount".

Page 15, line 26, after the word "possessions" insert the words "or its agencies or instrumentalities".

Page 16, line 1, delete the word "unless".

Page 16, lines 23 through 26, delete the existing language and insert the following: "(c) A partner's distributive share of the partnership's business income, as adjusted under section 32 and as apportioned to Alabama under section 51, shall be included in net income if the partner is not a resident of Alabama." "(d) A partner's entire distributive share of the partnership's income, as adjusted under section 32, shall be included in net income without allocation or apportionment if the partner is a resident of Alabama."

Page 19, line 18, delete the semicolon ";" and the word "penalties".

Page 20, line 13, after the word "possessions" insert the words "or its agencies or instrumentalities".

Page 20, line 9, after the word "with" insert the words "the principles of".

Page 20, line 15, after the word "with" insert the words "the principles of".

Page 20, line 24, after the word "with" insert the words "the principles of".

Page 21, lines 8 through 11, delete the existing language and insert the following: "(c) A shareholder's pro rata share of the corporation's business income, as adjusted under section 42 and as apportioned to Alabama under section 51, shall be included in net income if the shareholder is not a resident of Alabama." "(d) A shareholder's entire distributive share of the corporation's income, as adjusted under section 42, shall be included in net income without allocation or apportionment if the shareholder is a resident of Alabama."

Page 21, line 21, delete the word "taxpayer's" and insert in its place the word "shareholder's".

Page 24, line 4, delete the word "may" and insert the word "shall".

Page 24, line 6, delete the language following "Association" and insert the following "but not including the initial zero basis rule or any rule that is inconsistent with this act."

Page 24, line 27, after the word "any" insert the word "nonresident".

Page 24, line 34, after the words "If a" insert the word "nonresident".

Page 25, lines 7 through 12, delete the language following the word "estate" and preceding the word "merely" and insert the following: "shall not be considered income from transacting business or owning property in Alabama".

Page 36, lines 9 through 13, delete all of section 77.

Page 36, line 14, renumber Section 78 as Section 77.

Page 36, line 23, renumber Section 79 as Section 78.

Page 36, line 32, renumber Section 80 as Section 79.

Page 38, lines 17 through 19, delete the language following "Sections 40-18-1" and preceding the words "through 40-18-85".

Further amend on Page 9, Line 23, by deleting the word "entire".

Further amend on Page 24, by deleting Lines 12-15 in their entirety and inserting in lieu thereof the following:

" (a) Nonresident taxpayers having income from business activity which is".

Which was adopted.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Langford, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom

-23

Nay: Senator Corbett

- 1

The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the Bill, HB 240, as amended, to-wit:

AMENDMENT NO. 3 TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on Page 11, after Line 28, by adding the following language:

"A resident taxpayer age 60 years or over during the tax year, who does not receive retirement income as defined herein, shall have his or her interest income that was derived from savings accounts, certificates of deposit and similar deposits in financial institutions doing business in Alabama and interest income from certificates of deposit, savings accounts and similar deposits purchased from brokerage houses doing business in Alabama shall be exempted from the Alabama Income Tax."

On motion of Senator Little, said amendment was laid on the table.

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Senator Little then offered the following amendment to the Bill, HB 240, as amended, to-wit:

AMENDMENT TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on page 11 after line 28 by adding the following:

"Any resident taxpayer who is 62 years of age and who is receiving social security benefits but receives no income or distributions from any of the above retirement plans shall receive an exemption for any interest income that was derived from savings accounts, certificates of deposits and similar deposits in financial institutions doing business in Alabama or on instruments purchased from brokerage houses doing business in Alabama. Such interest income exemption shall be subject to the same cap limitations as included above."

Which was adopted.

Yeas 22 Nays 3

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), and Waggoner -22

Nays:

Senators:

Bailey, Barron, and Lipscomb - 3

Senator Little then offered the following amendment No. 2 to the Bill, HB 240, as amended, to-wit:

AMENDMENT NO. 2 TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on page 11, line 28 after the word "system." by adding the following:

"This exemption for retirement income shall terminate on December 31, 2050."

On motion of Senator Denton, said amendment was laid on the table.

Yeas 21 Nays 6

Yeas:

Senators:

Bailey, Barron, Bedsole, Campbell, Corbett, deGraffenried, Denton,

Dial, Dixon, Ellis, Foshee, Ghee, Horn, Langford, Lindsey, Mitchell, Owens, Parsons, Preuitt, Smith (B), and Windom -21

Nays:

Senators:

Bennett, Bolling, Figures, Floyd, Little, and Sanders - 6

Senator Mitchell offered the following amendment to the Bill, HB 240, as amended, to-wit:

AMENDMENT TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on page 8, after line 9 by inserting the following language:

"(f) Amount of federal income taxes paid."

Senator Bailey moved that said amendment be laid on the table, which motion was lost.

Yeas 13 Nays 17

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Horn, Little, Owens, and Parsons -13

Nays:

Senators:

Barron, Bedsole, Corbett, Dixon, Figures, Foshee, Ghee, Langford, Lindsey, Mitchell, Mitchem, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom -17

On motion of Senator deGraffenried, further consideration of the Mitchell amendment was indefinitely postponed.

Yeas 24 Nays 7

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, Sanders, Wilson, and Windom -24

Nays:

Senators:

Corbett, Dixon, Figures, Hilliard, Mitchell, Smith (B), and Waggoner - 7

Senator Dial offered the following amendment to the Bill, HB 240, as amended, to-wit:

AMENDMENT TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on page 6 by deleting lines 7 through 10 in their entirety and inserting in lieu thereof the following:

"the taxpayer's spouse: 5% of the net income for the taxable year beginning January 1, 1993 and 5.1% of the net income for the taxable year beginning January 1, 1994 and 5.2% of the net income for the taxable year beginning January 1, 1995 and 5.4% of the net income for the taxable year beginning January 1, 1996 and for each taxable year thereafter."

Further amend the bill, as amended, on page 18, line 12 and on page 18, lines 30 and 31 and on page 22, line 28 and on page 23, line 13 by deleting the words "5.0 percent" and inserting in lieu thereof the following:

"the applicable tax rate imposed by Section 5 of this act".

Which was adopted.

Yeas 26 Nays 6

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, and Wilson

-26

Nays:

Senators:

Corbett, Ellis, Mitchem, Smith (B), Waggoner, and Windom

- 6

Senator Figures offered the following amendment to the Bill, HB 240, as amended, to-wit:

AMENDMENT TO HB 240, AS AMENDED

Amend House Bill 240, as amended, on page 8, after line 9, by inserting the following:

"(f) Any unemployment compensation income to the extent included in a taxpayer's federal taxable income."

Which was adopted.

Yeas 29 Nays 2

Yeas:

Senators:

Amari, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Wilson, and Windom -29

Nays:

Senators:

Bailey and deGraffenried - 2

Senator Bailey offered the following amendment to the Bill, HB 240, as amended, to-wit:

AMENDMENT TO HB 240, AS AMENDED

Amend House Bill 240, as amended, as follows:

Page 14, line 7, after the word "subsection." add a new subsection (e) to read as follows:

"(e) The department of revenue shall promulgate regulations to effectuate this section, which shall take into account the reports required by section 72 of this act and shall be designed to minimize the administrative burden on fiduciaries and on the department by avoiding duplication of the information required to be filed under this section and under section 72."

Which was adopted.

Yeas 28 Nays 2

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Floyd, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Wilson, and Windom -28

Nays:

Senators:

Foshee and Hale - 2

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Senator Bailey then offered the following amendment No. 2, to the Bill, HB 240, as amended, to-wit:

AMENDMENT NO. 2 TO HB 240, AS AMENDED

Amend HB 240, as amended, on page 11 line 12 by deleting "\$20,000" and insert in lieu thereof "\$50,000"

On motion of Senator Denton, said amendment was laid on the table.

Yeas 17 Nays 12

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Foshee, Horn, Langford, Mitchell, Mitchem, Owens, Waggoner, and Windom -17

Nays:

Senators:

Bailey, Bolling, deGraffenried, Floyd, Hale, Hilliard, Lindsey, Lipscomb, Little, Parsons, Sanders, and Smith (B) -12

And said Bill, HB 240, as thus amended, was read a third time at length and passed.

Yeas 24 Nays 10

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Little, Mitchell, Owens, Parsons, Sanders, and Waggoner -24

Nays:

Senators:

Amari, Barron, Corbett, Hale, Lipscomb, Mitchem, Preuit, Smith (B), Wilson, and Windom -10

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 75. DECLARING THE LEGISLATIVE INTENT REGARDING THE PASSAGE OF ACT NO. 90-671.GREG PAPPAS,
Clerk.**BUDGET ISOLATION RESOLUTION**

Senator Owens, B.I.R., HB 251, adopted.

Yeas 29 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), Waggoner, Wilson, and Windom -29

Nay: Senator Mitchem

- 1

FURTHER CONSIDERATION OF HB 251

The Senate proceeded to further consideration of the Bill, HB 251.

The Standing Committee on Finance and Taxation reported the following amendment to the Bill, HB 251, to-wit:

AMENDMENT TO HB 251

Amend House Bill 251, on Page 2, Line 24, as follows: after the word "commissioner" insert the words "of revenue".

Further amend House Bill 251 on page 3, line 27, by deleting the word "an" and inserting in lieu thereof the word "and".

Further amend House Bill 251 on page 4, line 31 through page 5, line 2, by deleting the language following "Private use property." and inserting in lieu thereof the following language: "Property that is treated for federal income tax purposes as owned by an individual, partnership, or corporation organized for profit even though title may be held by a public authority or a county or municipal government."

Further amend House Bill 251 on page 7, line 12, after the word "es" by inserting the following words: "and its territories and sessions and".

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Further amend House Bill 251 on page 8, line 29, by deleting the word "exemption" and inserting in lieu thereof the word "subdivision".

Further amend House Bill 251 on page 8, line 34, after the words "26 U.S.C. Section 512" by adding the words "nor to any credit union".

Which was adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (B), Waggoner, and Windom -25

Nay: Senator Hale

- 1

POINT OF PERSONAL PRIVILEGE

Senator Amari requested that the Journal show that he voted "Nay" on the adoption of the Committee amendment No. 2 to the Bill, HB 240, and that his vote was incorrectly recorded.

FURTHER CONSIDERATION OF HB 251

The Senate proceeded to further consideration of the Bill, HB 251, as amended.

The Standing Committee on Finance and Taxation reported the following amendment No. 2, to the Bill, HB 251, as amended, to-wit:

AMENDMENT NO. 2 TO HB 251, AS AMENDED

Amend House Bill 251, as amended, on page 1, line 27 after the word "payments;" by adding the following:

"To provide for a special asset based tax on credit unions and to exempt credit unions from the tax imposed under this act;"

Further amend the bill, as amended, on page 9, by striking lines 5 and 6 and inserting in lieu thereof the following:

(4) Credit Unions. In lieu of income tax, credit unions shall pay

a special asset based tax calculated as follows:

(a) For taxable year 1993, .00575% of the total assets of the credit union as of the end of the calendar year.

(b) For taxable year 1994, .00634% of the total assets of the credit union as of the end of the calendar year.

(c) For taxable year 1995, .0069275% of the total assets of the credit union as of the end of the calendar year.

(d) For taxable year 1996, .007515% of the total assets of the credit union as of the end of the calendar year.

(e) For taxable year 1997, .0081% of the total assets of the credit union as of the end of the calendar year.

Provided that, the tax paid by a credit union for any calendar year shall not exceed 6% of the credit union's annual calendar year "net income (loss) after cost of funds" less "reserve transfers" as shown by the National Credit Union Administration form 5300s currently in use, less the following:

a. Interest on obligations of the United States, its agencies and instrumentalities to the extent required by Federal law.

b. Any loss carried forward from any previous year which has not previously been offset against income for purpose of calculating this tax.

c. Other deductions allowed by Generally Accepted Accounting Principles applicable to credit unions.

Such asset based tax shall be paid and reported as prescribed in Article Three of this act, except that Section 33 Estimated Taxes shall not apply.

Which was adopted.

Yeas 23 Nays 3

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Ellis, Floyd, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), Waggoner, and Windom -23

Nays:

Senators:

Corbett, Hale, and Hilliard

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The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the Bill, HB 251, as amended, to-wit:

AMENDMENT NO. 3 TO HB 251, AS AMENDED

Amend HB 251, as amended, on page 9, Section 8, Line 16, by adding the following new subsection:

"(10) Organizations exempt under Section 115 of the Internal Revenue Code."

Which was adopted.

Yeas 25 Nays 3

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Smith (B), Waggoner, Wilson, and Windom -25

Nays:

Senators:

Corbett, Hale, and Hilliard

- 3

Senator Owens offered the following amendment to the Bill, HB 251, as amended, to-wit:

AMENDMENT TO HB 251, AS AMENDED

On page 13, line 23, add the following after the words "section 9". ", or adjusted under section 7(g)".

On page 17, line 26, add the following after the words "12 months.": "Financial institutions shall pay the estimated tax payments during the first year under this act, but shall not pay any financial institution excise tax during such year. Should any financial institution excise tax be paid by a financial institution during such first year, the amount thereof shall be a credit against the taxes payable under this act for such year."

Which was adopted.

Yeas 25 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton,

Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Sanders, Smith (B), and Waggoner -25

Nays:

Senators:

Corbett and Hilliard

- 2

Senator Dial offered the following amendment to the Bill, HB 251, as amended, to-wit:

AMENDMENT TO HB 251, AS AMENDED

Amend House Bill 251, as amended, on page 6 line 7 by striking "5.3" and inserting in lieu thereof "5.4"

Further amend on page 6 line 9 by striking "5.7" and inserting in lieu thereof "5.8"

Further amend on page 6 line 12 by striking "6.0" and inserting in lieu thereof "6.1"

Which was adopted.

Yeas 26 Nays 2

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), Waggoner, and Windom -26

Nays:

Senators:

Ellis and Hilliard

- 2

And said Bill, HB 251, as thus amended, was read a third time at length and passed.

Yeas 24 Nays 6

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Horn, Langford, Lindsey,

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Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Waggoner, and Windom -24

Nays:

Senators:

Barron, Hale, Hilliard, Mitchem, Preuitt, and Smith (B) - 6

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolution with the original Senate Joint Resolution, and finds same correctly enrolled, to-wit:

SJR 75. DECLARING THE LEGISLATIVE INTENT REGARDING THE PASSAGE OF ACT NO. 90-671.

JIM PREUITT,
Chairperson.

RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolution, the title of which is set out in the foregoing report from the Committee on Rules.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senators Corbett, Bedsole, Windom, and Ellis:

S. 588. To regulate the possession and other matters related to certain exotic animals; to prescribe the powers and duties of certain state agencies, officials, and other persons; to provide standards for the care of exotic animals; and to prescribe penalties for violations and provide remedies.

Committee on Agriculture,
Conservation, and Forestry

By Senators Horn, Hale, and Barron:

S. 589. To amend Act 91-679 which makes appropriations to the Sickle Cell Education Program, so as to remove a requirement that the North Alabama Sickle Cell Foundation's budget be approved by the Madison County Legislative Delegation.

Committee on Finance
and Taxation

By Senator Ghee (With Notice and Proof):

S. 590. Regulating sales of alcoholic beverages in Calhoun County; imposing a sales tax on spirituous or vinous liquors sold for on-premises consumption in the county; providing for the administration and enforcement of this act; providing penalties for violations; and specifically repealing Act No. 1014, S. 1134 of the 1975 Regular Session and Act No. 2220, H. 2829 of the 1971 Regular Session.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 590, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Ghee (With Notice and Proof):

S. 591. Relating to Calhoun County; providing further for the distribution of the beer taxes imposed pursuant to Section 28-3-190, Code of Alabama 1975 and providing for retroactive effect.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 591, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senators Waggoner, Foshee, Owens, Bailey, Lipscomb, Bolling, Preuitt, Dial, Campbell, Mitchell, Bedsole, Hale, Ghee, Denton,

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Ellis, Dixon, deGraffenried, Horn, Barron, and Sanders:

S. 592. To provide for an additional fee for filing or recording any real property instrument of conveyance, or interest in real property by deed or otherwise; to provide for a fee for the judge of probate, or like official who records real property instruments, for administering this act; to provide for the disposition of the revenues generated by this act; and to provide that a certain portion of the revenues shall be designated in the State General Fund to the credit of the State Department of Conservation and Natural Resources, Division of State Land Surveys, with any excess of revenues reverting to the State General Fund at the end of the fiscal year.

**Committee on Agriculture,
Conservation, and Forestry**

By Senator Wilson:

S. 593. To amend Section 40-13-6, Code of Alabama 1975, to provide for disbursement and appropriation of proceeds from certain coal severance taxes.

**Committee on Energy and
Natural Resources**

By Senator Campbell:

S. 594. To propose a constitutional amendment relating to Lawrence County authorizing the county governing body to levy a fee for fire protection services and emergency medical care and providing for the distribution of funds from the fees; and to provide for approval.

**Committee on Governmental
Affairs/Local Government**

The above Bill was read a first time at length as required by the Constitution.

FURTHER CONSIDERATION OF HB 245

The Senate proceeded to further consideration of the Bill, HB 245, as amended. The question was on the Committee amendment No. 2.

And said amendment was then adopted.

Yeas 27 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (B), Waggoner, and Windom -27

Nay: Senator Hale

- 1

The Standing Committee on Finance and Taxation reported the following amendment No. 3 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page 29, Line 25, by adding a new section 30 to read as follows and renumbering the subsequent sections accordingly.

Section 30. Fee for collecting local transaction tax.

The department of revenue shall charge a municipality for collecting a local transaction tax authorized by Section 25 of this Act the cost to the department of making such collections; provided, however, that such charge shall not exceed five percent of the amount collected where the population of the municipality is over 5,000 and shall not exceed ten percent of the amount collected where the population of the municipality is 5,000 or less. The department of revenue shall charge a county for collecting a local transaction tax authorized by Section 25 of this Act the cost to the department of making such collections; provided, however, that such charge shall not exceed five percent of the amount collected. The comptroller shall once each month draw his warrant on the funds collected under this Article payable to the department of revenue for the amount of such charges as determined by the commissioner of revenue.

On motion of Senator Barron, said amendment was laid on the table.

The Standing Committee on Finance and Taxation then reported the following amendment No. 4 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 4 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page

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24, Line 32, by deleting the phrase "Alabama School Authority" and inserting in lieu thereof the following:

"Alabama Public School and College Authority"

Which was adopted.

Yeas 27 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Waggoner, and Windom -27

Nay: Senator Hale

- 1

The Standing Committee on Finance and Taxation then reported the following amendment No. 5 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 5 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page 33, Line 23, after the "period" by inserting the following language:

"The Department of Revenue shall send to any municipality for which the department collects municipal transaction taxes a monthly report of taxes collected by vendor in and for the benefit of that municipality."

Which was adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), and Windom -25

Nay: Senator Hale

- 1

The Standing Committee on Finance and Taxation then reported

the following amendment No. 6 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 6 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page 26, Line 17, by inserting after the word "a" the following:

"transaction"

Further amend the substitute, as amended, for House Bill 245, on Page 26, Line 28, by inserting after the period "." the following:

"Nothing herein shall prohibit the levy or collection of municipal privilege license taxes, occupational license taxes, franchise taxes, permit fees, or taxes on commodities including, but not limited to, alcoholic beverages, petroleum products and tobacco products as heretofore authorized by law."

Which was adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), and Windom -25

Nay: Senator Ghee

- 1

Senator Sanders offered the following amendment to the substitute, as amended, for HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245 on page 4 following line 2 by adding the following new subsection (e) and renumbering all subsequent subsections accordingly:

"(e) Food - the term "food" shall have the same meaning as defined for food stamp purposes in the Federal Food Stamp Act, 7 U.S.C., Sections 2011, et seq."

Further amend the substitute, as amended, for the bill on page 7, line 23 by striking the following:

"(f) and (g)"

and inserting in lieu thereof the following:

"(f), (g) and (h)".

Further amend the substitute, as amended, for the bill on page 8, line 5 by striking the word "and".

Further amend the substitute, as amended, for the bill on page 8, line 10 by striking the period "." and inserting in lieu thereof the following:

"; and"

Further amend the substitute, as amended, for the bill on page 8 following line 10 by adding the following new subsection (h) as follows:

"(h)(1) There is hereby imposed a tax of four percent of the gross receipts from the sale or use of food for taxable periods beginning with the effective date of this act.

(2) There is hereby imposed a tax of three percent of the gross receipts from the sale or use of food for taxable periods beginning January 1, 1993.

(3) There is hereby imposed a tax of two percent of the gross receipts from the sale or use of food for taxable periods beginning January 1, 1994.

(4) There is hereby imposed a tax of one percent of the gross receipts from the sale or use of food for taxable periods beginning January 1, 1995.

(5) There is hereby exempt from any state transaction tax on the sale or use of food for taxable periods beginning January 1, 1996."

Further amend the substitute, as amended, for the bill on page 26, line 17 following the word "tax" in its first occurrence by inserting the following:

"and the state taxable treatment of food"

Further amend the substitute, as amended, for the bill on page 29,

line 24 following the period "." by inserting the following:

"The department of revenue shall collect the tax imposed by this Article, except as provided above, if the tax imposed is identical to the state transaction tax in every respect except for the rate of tax and the state taxable treatment of food."

Which was adopted.

Yeas 30 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Wilson, and Windom -30

Nay: Senator Waggoner

- 1

Senator Corbett offered the following amendment to the substitute, as amended, for HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on Page 29, Line 25, by adding a new section 30 to read as follows and renumbering the subsequent sections accordingly.

Section 30. Fee for collecting local transaction tax.

The department of revenue shall charge a municipality for collecting a local transaction tax authorized by Section 25 of this Act the cost to the department of making such collections; provided, however, that such charge shall not exceed five percent of the amount collected. The department of revenue shall charge a county for collecting a local transaction tax authorized by Section 25 of this Act the cost to the department of making such collections; provided, however, that such charge shall not exceed five percent of the amount collected. The comptroller shall once each month draw his warrant on the funds collected under this Article payable to the department of revenue for the amount of such charges as determined by the commissioner of revenue.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and

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House of Representatives, I respectfully report the following Bills and Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SJR 90

SJR 93

SB 274

SJR 91

SJR 94

SB 107

SJR 92

SJR 105

Delivered to the Governor, April 14, 1992, at 1:35 P.M.

SJR 75

Delivered to the Governor, April 14, 1992, at 10:38 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 11:25 P.M., on motion of Senator Parsons, pending further consideration of the Bill, HB 245, the Senate adjourned until Thursday, April 16, 1992, at 10 o'clock A.M.

TWENTY-THIRD LEGISLATIVE DAY

THURSDAY, APRIL 16, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Don Hale, Fourth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Melanie Angelique Moyer, Cullman Middle School, Cullman, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Twenty-Second Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

MOTION TO RECESS

Senator deGraffenried moved that the Senate take a recess at 12 o'clock Noon until 1:30 P.M., which motion was adopted.

MOTION TO ADJOURN

Senator deGraffenried then moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, April 21, 1992, at 9 o'clock A.M., which motion was adopted.

**UNFINISHED BUSINESS
BILLS ON THIRD READING**

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

H. 245. To provide for the Alabama Transaction Tax Act of 1992; to amend Sections 11-51-180 to 11-51-182, inclusive, 11-100-3, 11-100-4, 11-100-7, 16-15-11, 16-16-11, 40-12-4, 40-12-6, 40-12-7, 40-21-85, 40-21-106, 40-21-122, and 40-29-73, Code of Alabama 1975; to repeal Sections 11-51-200 to 11-51-207, inclusive, 34-27-65, 40-12-220 to 40-12-227, inclusive, 40-23-1 through 40-23-121, inclusive, and 40-26-1 through 40-26-21, inclusive, Code of Alabama 1975.

as amended. The question was on the Corbett amendment to the Committee substitute, as amended, which said substitute and amendment are set out in the Journal of the Senate for the Twenty-Second Legislative day.

And said amendment was then adopted.

Senator Figures offered the following amendment to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245 on page 48, after line 25 by inserting the following new Section 49 as follows and by renumbering the remaining sections accordingly:

"Any other law to the contrary notwithstanding the gross proceeds or gross receipts from the following sales are hereby fully taxable under the transactions tax:

- 1) Sales of coal, coke and wood residue to manufacturers;
- 2) Sales of pollution control facilities, devices, components, and materials;
- 3) Sales of fuel and supplies to ships;
- 4) Sales of materials and equipment becoming a part of ships, vessels and barges;
- 5) Sales of nuclear fuel assemblies, together with materials contained therein and nuclear fuel by-products, previously exempted under Section 40-9-22 of the Code of Alabama, as amended;
- 6) Sales of grass sod;
- 7) Sales of warranty agreements;
- 8) Sales of vitamins, minerals and dietary supplements;
- 9) Sales of tree seedlings and forest trees sold by the state;
- 10) Sales of boxes, twine and stakes used in tomato production;
- 11) Sales of chicken litter;
- 12) Withdrawals of tangible personal property by manufacturers for use in a contract for improvements or additions to real estate outside Alabama;
- 13) Sales of one-time use containers;
- 14) Sales of parts and materials used to repair tangible personal property for sale;
- 15) Sales of baggings and ties used in preparing cotton for market; and

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16) Sales of casings used in molding and forming weiners."

Senator deGraffenried moved that said amendment be laid on the table, which motion was lost

Yeas 15 Nays 17

Yeas:

Senators:

Bedsole, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lipscomb, Mitchell, Owens, Preuit, Smith (B), Smith (J), Waggoner, and Wilson
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Nays:

Senators:

Amari, Bailey, Bennett, Bolling, Campbell, Corbett, Figures, Floyd, Foshee, Horn, Langford, Lindsey, Little, Mitchem, Parsons, Sanders, and Windom
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MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Payne (With Notice and Proof):

H. 344. To amend Act No. 1272, H. 620, 1973 Regular Session, as amended, to provide a means of withdrawal for the Jefferson County Board of Health's active, retired, and vested employees, or designated survivors, if applicable, from the City of Birmingham Retirement and Relief System; to provide a means for the board employees to become members of the Employees' Retirement System of Alabama; to provide for the termination of the applicability of article 9, section 2 of the act, as the provisions may apply to board of health employees who become members of the state retirement system and to provide for transfer of funds between the retirement systems.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 344, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Lindsey (With Notice and Proof):

H. 673. Relating to Cherokee County; to create a permanent office of license commissioner within the offices of the county courthouse for the issuance of certain licenses; to provide that the probate judge of Cherokee County shall be the permanent administrator of said office; to provide for the selection of personnel for such office; to provide certain duties for the license commissioner; to provide for an optional procedure for the renewal of motor vehicle licenses in the county by mail; to authorize certain additional fees and costs pursuant to the mail system of renewal, which fees shall be set by the county commission, from time to time, in order to fund the cost of the mailing system; to prescribe more convenient and efficient procedures for assessing and collecting certain taxes and the issuance of licenses by the license commissioner; to provide for the performance of certain duties in the office as designated by the county commission; to provide for a permanent expense allowance for the probate judge for the performance of duties as the license commissioner; and to specifically repeal Act No. 87-467, H. 826, 1987 Regular Session (Acts 1987, p. 703).

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 673, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Knight and Smith (C) (With Notice and Proof):

H. 704. To authorize the county commission of Bibb County, Alabama, acting pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by Bibb County, on all taxable property situated within the county subject to the jurisdiction and control of the Bibb County Board of Education, the special countywide ad valorem tax for public school purposes which is authorized in Amendment No. 3 to the Constitution, to the maximum rate, for any tax year of the County, which is equal to \$1.60 on each one hundred dollars (16 mills on each dollar) of assessed value.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS

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**ATTACHED TO THE BILL, HB 704, AS REQUIRED IN THE
GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.**

**GREG PAPPAS,
Clerk.**

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

**The House Bills, the titles of which are set out in the foregoing
Message from the House, were severally read one time and referred to
appropriate Standing Committees, as follows:**

HB 344 - to the Committee on Local Legislation No. 2

HB's 673 and 704 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

**The House has originated and passed the following House Bills
and ordered same sent forthwith to the Senate without engrossment:**

By Rep. Hill (With Notice and Proof):

**H. 566. To levy and impose on lessors or renters of tangible
personal property in Shelby County an additional license or privilege tax
based on the gross proceeds of such business of leasing or renting
tangible personal property payable to the license commissioner of Shelby
County, to be deposited into the general fund of the county treasury for
the use of Shelby County.**

**I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS
ATTACHED TO THE BILL, HB 566, AS REQUIRED IN THE
GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.**

**GREG PAPPAS,
Clerk.**

Also:

By Reps. Hill and Knight (With Notice and Proof):

H. 567. Relating to Shelby County; to allow persons engaged in

the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 567, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 566 and 567 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cagle (With Notice and Proof):

H. 644. To provide for the implementation of a constitutional amendment authorizing the municipal governing body to regulate the operation of bingo in the area outside of the corporate limits of the City of Jasper in Walker County, Alabama.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 644, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 644 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Black (M) and Goodwin (With Notice and Proof):

H. 692. Relating to Colbert County; providing for the levy of an additional recording fee upon documents filed for record with the judge of probate.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 692, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Laird (With Notice and Proof):

H. 722. Relating to the City of Roanoke in Randolph County and the continued funding of education; calling an election on the question of renewing and continuing the ad valorem tax of five mills now levied in school district pursuant to Amendment 373 and Amendment 156 of the Constitution of 1901, and the laws of the state of Alabama or school district taxes, with collections continuing in 1992 for 1991 taxes and to be used by the city board of education for public school purposes in the city of Roanoke; specifying the conduct of the election and frequency of special elections on such tax.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 722, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Biddle (With Notice and Proof):

H. 85. Relating to Jefferson County, providing for a salary for the statutory chief clerk of the probate court of said county.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 85, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB's 692 and 722 -to the Committee on Local Legislation No. 1

HB 85 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cagle (With Notice and Proof):

H. 643. To provide for the implementation of a constitutional amendment authorizing the municipal governing body to regulate the operation of bingo in the City of Jasper in Walker County, Alabama.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 643, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 643 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Curry, Hawkins, Sanderson, Gaines, Rogers (F), Carns, and Morton (With Notice and Proof):

H. 38. Relating to the City of Birmingham in Jefferson County, to further amend Act No. 929, 1951 Regular Session and as extensively amended by Act No. 1272, 1973 Regular Session which created a Retirement and Relief System for officers and employees of Class 1 Municipalities, so as to provide further for a member appointed by the city council and a retired member elected by the retired members in the system to serve as members of the board of managers of the City of Birmingham Retirement and Relief System; to provide further for a quorum of the board; to provide additional compensation for members of the board; and to provide further for the filing of reports and records which shall be public records subject to inspection.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 38, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 38 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. McKee (With Notice and Proof):

H. 559. Relating to Montgomery County; pertaining to the Retirement System for Employees of Montgomery County, to amend Section 4 of Act No. 356 of the Legislature of Alabama of 1973 to provide for employees with prior employment with the State of Alabama or subdivision thereof to purchase credit in the Montgomery County Retirement System; and to allow those County employees who but for Section 3 of Act No. 176 of the 1959 Regular Session of the Alabama Legislature would have contributed to the Montgomery County Employees' Retirement System to pay the amount not deducted plus interest and thereby receive credit for membership in the Montgomery County Employees' Retirement System for the period of time when such monies were not contributed.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 559, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 559 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and

ordered same sent forthwith to the Senate without engrossment:

By Rep. Smith (C) (With Notice and Proof):

H. 703. Relating to Bibb County; to amend Section 1 of Act No. 81, H. 530, Regular Session 1977 (Acts 1977, p. 119), relating to the issuance of pistol permits by the sheriff, so as to increase the fee.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 703, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 703 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Clark (W):

H. 642. To propose an amendment to the Constitution of Alabama of 1901 to authorize the Mobile County Commission to levy and collect an additional ad valorem tax for school capital outlay purposes in Mobile County.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Mes-

sage from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 642 - to the Committee on Local Legislation No. 3

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Fuller and Laird (With Notice and Proof):

H. 607. Relating to Chambers County; providing for the operation and management of an inmate commissary at the Chambers County detention facility, retroactive to August 1, 1991.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 607, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 607 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Curry, Hawkins, Sanderson, Gaines, Rogers (F), Carns, and Morton (With Notice and Proof):

H. 39. Relating to retirement or participant benefits and

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spouse's or survivor's benefits for persons in Class 1 municipalities who are covered by a pension, relief, and retirement system for municipal officers and employees pursuant to Act No. 929, S. 676, Regular Session 1951 (Acts 1951, p. 1579), as amended, to make legislative findings, to provide that all recipients of extraordinary disability benefits whose longevity payment received during the year prior to their disability was not included in the amount of monthly salary used in the calculation of the extraordinary disability benefit shall receive an increase in the monthly benefit of 70 percent of one-twelfth of the total longevity payment received during the year immediately preceding the recipient's disability application; and to set an effective date.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 39, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 39 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner (With Notice and Proof):

H. 19. Relating to Mobile County; providing that the City of Mobile and other municipalities shall make an annual appropriation to the Mobile County Board of Education.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS

ATTACHED TO THE BILL, HB 19, AS REQUIRED IN THE
GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing
Message from the House, was read one time and referred to appropriate
Standing Committee, as follows:

HB 19 - to the Committee on Local Legislation No. 3

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Carter and Hamilton:

H. 565. To propose an amendment to the Constitution of
Alabama of 1901 to levy a one cent sales and use tax in Limestone
County for the Athens City Board of Education and the Limestone
County Board of Education.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing
Message from the House, was read one time and referred to appropriate
Standing Committee, as follows:

HB 565 - to the Committee on Local Legislation No. 1

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(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Perdue (With Notice and Proof):

H. 395. Relating to Jefferson County, regulating persons practicing the art of tattooing; prescribing certain penalties; and prescribing a prospective effective date.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 395, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 395 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. McKee (With Notice and Proof):

H. 557. Relating to Montgomery County; to repeal Act No. 385 of the 1978 Regular Session of the Legislature of Alabama, which fixes

the salary of the License Inspector and prescribes the conditions of employment.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 557, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 557 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Hammett:

H. 612. To propose an amendment to the Constitution of Alabama of 1901, relating to fire protection districts in Covington County, and to authorize the county commission to levy and collect certain additional property taxes for fire protection and rescue squads in the county.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 612 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Higginbotham and Turnham (With Notice and Proof):

H. 604. Providing further for the salary of the sheriff of Lee County, Alabama.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 604, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Harvey (With Notice and Proof):

H. 622. Relating to county government structure in Blount County; providing for the construction, maintenance, and repair of public roads, highways, bridges, and ferries under the county unit system under the county-wide supervision of a county engineer; to provide that the position of county commissioner shall be part-time positions with compensation as provided under general law; and to repeal Act No. 85-620, H. 334 of the 1985 Regular Session (1985 Acts, p. 946) and Act No. 87-446 of the 1987 Regular Session (1987 Acts, p. 660) of the Alabama Legislature in conflict with these provisions.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 622, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 604 and 622 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Clark (J) (With Notice and Proof):

H. 654. Relating to Barbour County; authorizing the county commission to levy an additional ad valorem tax and providing for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 654, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Blakeney and Dolbare (With Notice and Proof):

H. 656. Relating to Clarke County; providing for the county board of education to consist of five members elected from five single-member school board districts; providing for the division of Clarke County into five single-member county school board districts; providing for the terms of office; and repealing all conflicting laws.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 656, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Blakeney and Dolbare (With Notice and Proof):

H. 657. Relating to Clarke County government, to change the

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composition of the Clarke County Commission to provide that the Clarke County Commission shall consist of five members elected from five single-member districts, with the chairmanship to rotate among said five members; and said chairman shall preside at all meetings and shall be entitled to vote on all matters coming before the County Commission; to provide for the terms of said Commissioners, and to require that the members of the commission shall reside within the boundaries of each district; and repealing all conflicting laws.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 657, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 654, 656, and 657 - to the Committee on Local Legislation
No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Knight (With Notice and Proof):

H. 568. Relating to Shelby County; amending Act No. 88-389, H. 803, 1988 Regular Session, which levies a tax on cigarettes, to include other tobacco products within the tax.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 568, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Petelos and Newton (D) (With Notice and Proof):

H. 623. Relating to Jefferson County; to further amend Section 18 of Act No. 248, H. 580, 1945 Regular Session, as amended, relating to creating and establishing a countywide civil service system, to provide for additional names to be certified for vacancies in the classified service.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 623, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 568 - to the Committee on Local Legislation No. 1

HB 623 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Clark (J) (With Notice and Proof):

H. 655. Relating to Barbour County; authorizing the county commission to levy an additional sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax; and prescribing penalties and fixing punishment for violation of this act; and providing for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 655, AS REQUIRED IN THE

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GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 655 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Clark (J) (With Notice and Proof):

H. 651. Relating to Barbour County; authorizing the county commission to levy and impose on lessors or renters of tangible personal property an additional license or privilege tax based on the gross proceeds of such business of leasing or renting tangible personal property payable; to provide for enforcement and for penalties for violations; and to provide for the distribution of the proceeds of the tax; and to provide for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 651, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 651 - to the Committee on Local Legislation No. 1

FURTHER CONSIDERATION OF HB 245

The Senate proceeded to further consideration of the Bill, HB 245. The question was on the Figures amendment to the Committee substitute, as amended.

And said amendment was then lost.

Yeas 13 Nays 20

Yeas:

Senators:

Amari, Bailey, Bennett, Bolling, Corbett, Figures, Floyd, Ghee,
Langford, Lindsey, Parsons, Sanders, and Windom -13

Nays:

Senators:

Barron, Bedsole, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis,
Hale, Hilliard, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt,
Smith (B), Smith (J), Waggoner, and Wilson -20

RECESS

The hour of 12 o'clock Noon having arrived, in accordance with Motion heretofore adopted, the Senate took a recess until 1:30 P.M.

At 1:30 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF HB 245

The Senate proceeded to further consideration of the Bill, HB 245. The question was on the Committee substitute, as amended.

Senator Parsons offered the following amendment to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245, on page 4, line 4 after the word "transaction" by inserting the following:

" , including any consumer excise taxes levied on any goods, " .

On motion of Senator Parsons, said amendment was laid on the table.

Senator Parsons then offered the following amendment No. 2 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245 on page 4, line 4 after the word "act" by inserting the following:

" , including any consumer excise taxes levied on any goods, " .

Which was adopted.

Senator Parsons then offered the following amendment No. 3 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

On page 49, line 19, after the language "26 U.S.C. §501(c)(3)" insert the following language:

, but excluding the Jefferson County Tuberculosis Sanitarium, which shall be subject to the tax levied pursuant to this act,

Which was adopted.

POINT OF PERSONAL PRIVILEGE

Senator deGraffenried requested that the Journal show that he voted "Nay" on the adoption of the Parsons amendment No. 3 to the substitute, as amended, for the Bill, HB 245.

FURTHER CONSIDERATION OF HB 245

The Senate proceeded to further consideration of the Bill, HB 245.

The question was on the Committee substitute, as amended.

Senator Parsons offered the following amendment No. 4 to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT NO. 4 TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

On page 49, line 19, after the language "26 U.S.C. §501(c)(3)" insert the following language:

but excluding any certificated or licensed air carrier with a hub operation within the state, for use in conducting intrastate, interstate, or foreign commerce for transporting people or property by air; a hub operation meaning there originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year and passengers or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier; such air carriers shall be subject to the tax levied pursuant to this act,

Which was adopted.

Senator Foshee offered the following amendment to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

On page 16, after line 18, add the following Section and renumber the remaining sections:

Section 7. (a) The Diabetes Trust Fund, Incorporated, and any of its branches or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(b) The Chilton County Rescue Squad is exempted from paying any state, county, or municipal transaction, sales or use taxes.

(c) The state headquarters only of the American Legion, the American Veterans of World War II, Korea and Vietnam (a/k/a "AMVETS"), the Disabled American Veterans, the Veterans of Foreign Wars (a/k/a VFW), Alabama Goodwill Industries, and the Alabama

Sight Conservation Association are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(d) The Grand Chapter of all Orders of the Eastern Star and the South Alabama State Fair Association Southeastern Livestock Exposition and any of its agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(e) The Alabama Goodwill Industries, Incorporated, of Birmingham is exempted from paying any state, county, or municipal, transaction, sales, or use taxes.

(f) The Alabama Federation of Women's Clubs is exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(g) The National Conference of State Legislatures and the Council of State Governments are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(h) All blind vendors associated with the business enterprise program of the Division of Rehabilitation and Crippled Children Service through the Department of Education are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(i) All vendors who are blind as defined by Section 1-1-3, and who are certified by Division of Rehabilitation and Crippled Children Service, are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(j) The Elks Club, B.P.O.E., No. 1887, a corporation, is exempted from paying any state, county, or municipal transaction, sales, or use taxes. The exemption provided by this subsection shall not extend to any bar or dining room operation conducted by the Elks Club.

(k) The King's Ranch, Incorporated, is exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(l) The Eye Foundation, Incorporated, and any of its branches or agencies, heretofore, or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(m) Any county public hospital association and any of its

branches, agencies, lessees or successors organized pursuant to Chapter 3A (commencing with Section 10-3A-1) of Title 10 of the Code of Alabama 1975, and which operates or maintains hospitals for counties and for purposes other than for pecuniary gain and not for individual profit, is exempted from paying any state, county, or municipal transaction, sales, or use taxes.

(n) There is exempted from all state, county, and municipal transaction or sales taxes the sale of food pursuant to the food distribution program conducted by Christian Service Mission, Incorporated, an Alabama not-for-profit corporation, in cooperation with World Share, Incorporated, to enable needy persons to purchase food at substantially discounted prices and in consideration of the performance of charitable or community work by needy persons.

(o) Rescue service organizations operating within the state of Alabama which are exempt from federal income taxes under the Internal Revenue Code of 1986, Section 501(c)(3) and which are members of the Alabama Rescue Services Association, Incorporated, are exempted from any state, county, and municipal transaction, sales, and use taxes.

(p) The Selma-Dallas County Historic Preservation Society and the Valegrande County Center are exempted from paying any state, county, or municipal transaction, sales, or use taxes.

Senator deGraffenried moved that said amendment be laid on the table, which motion was lost.

Yeas 6 Nays 21

Yeas:

Senators:

Barron, Bedsole, Bennett, deGraffenried, Horn, and Little

- 6

Nays:

Senators:

Amari, Bailey, Bolling, Corbett, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom

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And said amendment was then adopted.

Senator Windom offered the following amendment to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill No. 245 Page

16 after the Foshee amendment add the following Section and renumber the remaining sections

Section 7.

- (q) Baptist Childrens Home
- (r) Mobile Rescue Mission, Inc.
- (s) Ladonia Recreation Association
- (t) Dixie Youth Baseball
- (u) Greater Gulf State Fair, Inc.
- (v) Mobile Community Action, Inc.
- (w) Goodwill Industries, Inc.
- (x) Huffman Recreation Association, Inc.
- (y) United Cerebral Palsy of Alabama
(all affiliates)

Landmarks Park of Dothan, Inc.

Inner City Mission, Mobile

Prime Time Treasures, Homewood

On motion of Senator deGraffenried, said amendment was laid on the table.

Yeas 19 Nays 12

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Hale, Horn, Lindsey, Little, Owens, Smith (B), Waggoner, and Wilson -19

Nays:

Senators:

Amari, Bennett, Corbett, Figures, Ghee, Hilliard, Langford, Lipscomb, Mitchell, Sanders, Smith (J), and Windom -12

Senator deGraffenried then offered the following amendment to the substitute, as amended, for the Bill, HB 245, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 245**

Amend the substitute, as amended, for House Bill 245 on page 25, lines 15 through 35 and page 26 lines 1 through 8 by striking in their entirety and inserting in lieu thereof the following:

"(1) For the fiscal year beginning in 1992, 15.90% to the State General Fund, and the remainder to the Alabama Special Educational Trust Fund.

(2) For the fiscal year beginning in 1993, \$16,350,000 to the counties and municipalities that received distributions of financial institution excise tax during the fiscal year beginning in 1991, such amount to be distributed in the proportions determined by averaging the proportion of the total financial institution excise tax each such county and municipality received during the fiscal years beginning in 1989, 1990, and 1991; 18.77% to the State General Fund, and the remainder to the Alabama Special Educational Trust Fund.

(3) For the fiscal year beginning in 1994, 22.91% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(4) For the fiscal year beginning in 1995, 24.53% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(5) For the fiscal year beginning in 1996, 25.90% to the State General Fund and the remainder to the Alabama Special Educational Trust Fund.

(6) For the fiscal year beginning in 1997 and each fiscal year thereafter, 1.56% to the counties and municipalities that collected the shares tax imposed by section 70 of chapter 14 of title 40 of the Code of Alabama 1975, during the ad valorem tax year ending September 30, 1996, such amount to be distributed among such counties and municipalities in such proportion as the average amount of shares tax collected by each such county and municipality with respect to the ad valorem tax years beginning October 1 of 1994, 1995, and 1996 bears to the average amount of shares tax collected by all such counties and municipalities with respect to such years, 26.00% to the State General

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Fund, and the remainder to the Alabama Special Educational Trust Fund."

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 29 Nays 2
Abstaining 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Smith (J), Waggoner, Wilson, and Windom -29

Nays:

Senators:

Hale and Smith (B) - 2

Abstaining: Senator Preuit - 1

And said Bill, HB 245, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 32 Nays 2

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom -32

Nays:

Senators:

Hale and Smith (B) - 2

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

Pursuant to the provisions of SR 106, the Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 243. To amend Sections 40-7-25.1, 40-7-25.2, 40-7-25.3,

40-8-1, 40-9-1, and 40-11-1, Code of Alabama 1975, relating to current use valuation, the assessment of property, the rate of state ad valorem tax, exemptions from ad valorem taxation, and the subjects of taxation, and to repeal Sections 40-8-4, 40-8-5, 40-9-1.1, to 40-9-28, inclusive, Code of Alabama 1975.

On motion of Senator deGraffenried, the Rules were suspended and further consideration of the Bill, HB 243, was postponed temporarily.

REQUEST DENIED

Senator Amari requested permission to suspend the Rules in order to introduce a bill.

Upon objection of Senator Corbett, said request was denied.

BILLS ON THIRD READING RESUMED

THE BILL:

H. 242. To propose an amendment to the Constitution of Alabama of 1901, authorizing, under certain conditions, the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed fifty one-hundredths of one percentum on the value of the taxable property within the state and providing for the distribution of the proceeds to be derived from said special tax for certain specified purposes.

was taken up.

On motion of Senator deGraffenried, the Rules were suspended and further consideration of the Bill, HB 242, was postponed temporarily.

Yeas 21 Nays 10

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Foshee, Hale, Horn, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), and Waggoner -21

Nays:

Senators:

Amari, Corbett, Dixon, Figures, Ghee, Lipscomb, Little, Parsons, Smith (J), and Windom -10

THE BILL:

H. 248. To levy an additional two and one-half mill ad valorem tax and an additional five mill ad valorem tax and provide for the distribution of the respective proceeds therefrom, to provide that the aforesaid levies shall be contingent upon the approval by the qualified electors of the state of, in the case of the two and one-half mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 252 at the 1992 Regular Session of the Legislature, and in the case of the five mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 242 at the 1992 Regular Session of the Legislature.

was taken up.

On motion of Senator Foshee, the Rules were suspended and further consideration of the Bill, HB 248, was postponed temporarily.

Yeas 21 Nays 10

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), and Waggoner -21

Nays:

Senators:

Amari, Corbett, Figures, Ghee, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom -10

RESOLUTION

Senators Little, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 107. CONGRATULATING SENATOR AND MRS. JIM SMITH ON THE BIRTH OF THEIR DAUGHTER.

WHEREAS, it is with great pleasure that the Legislature of Ala-

bama extends heartiest congratulations to our friends, Jim and Cheryl Smith, on the birth of their daughter; and

WHEREAS, arriving on April 14, 1992, "baby girl Smith" weighed 6 pounds-eight ounces at birth and measured 19 inches in length; and

WHEREAS, the first child for the happy Smith family was named Lauren Elizabeth, on April 16, two days following her birth, and we can only assume that the delay in selecting such a lovely name rests with father Jim who, as a member of this legislative assembly (a "deliberative" body), makes no move without "formal consultation or discussion and leisureliness of action," as defined by Random House; and

WHEREAS, we seriously, however, rejoice with our friends, Jim and Cheryl, in this happy event, and wish for them every happiness and joy of parenthood; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating Jim and Cheryl Smith on the birth of their daughter and first child, Lauren Elizabeth, and direct that a copy of this resolution be presented to our colleague, Senator Smith.

BE IT FURTHER RESOLVED, That a copy of this resolution also be provided for little Lauren Elizabeth that she may later know of the happiness we shared with her parents on the occasion of her birth.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

BILLS ON THIRD READING RESUMED

THE BILL:

H. 252. To amend the Constitution of Alabama of 1901, by proposing amendments to Sections 217 (as amended by Amendment 373), 229 (as amended by Amendment 27), 232 (as amended by Amendment 473), of the Constitution of Alabama of 1901 and Amendment 25 of the Constitution and to repeal Sections 91 and 261 and to repeal Amendments 61, 212, 225 and 448 of the Constitution of 1901 so as to provide for the assessment of all property in three classifications; to provide for homestead and other exemptions; to permit but not require the Legislature to impose corporate franchise taxes; to authorize the

imposition of an income tax; to repeal the requirement for personal exemptions in the income tax; to modify the earmarking of the income tax; to repeal the requirement that the federal income tax be deductible in computing net income. In addition, this bill would authorize the levy by the Legislature of an additional state ad valorem property tax at a rate not to exceed twenty-five one hundredths of one percent on the value of the taxable property within the state and provide for the distribution of the proceeds to be derived from said special tax for certain specified purposes. This bill would also limit total appropriations from state funds in any fiscal year to the revenue collected for the fiscal year that ended one year prior to the commencement of the fiscal year for which said appropriations are being made; provide a procedure for appropriation of balances; provide a procedure for supplemental appropriations during special sessions; provide for a 1 year phase-in period for appropriations from the State General Fund and a 5 year phase-in period for appropriations from the Alabama Special Educational Trust Fund; provide a procedure for appropriations of revenue-raising measures; provide that the Governor will present his proposed basic appropriation bills and revenue-raising measures to the Legislature 30 days prior to a regular session; provide the time frames within the regular session in which appropriation bills are to be considered by each house of the Legislature; provide an automatic emergency budgetary special session if the Legislature fails to meet its deadlines; provide time frames for the return of appropriation bills by the Governor; to provide that the provisions of this proposed amendment to the Constitution shall be linked to the enactment and ratification of certain bills introduced in the 1992 Regular Legislative Session and also to provide election procedures for this proposed amendment to the Constitution.

was taken up.

On motion of Senator Foshee, the Rules were suspended and further consideration of the Bill, HB 252, was postponed temporarily.

Yeas 18 Nays 11

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Ellis, Foshee, Hale, Horn, Lindsey, Mitchell, Owens, Preuit, Smith (B), and Waggoner -18

Nays:

Senators:

Amari, Corbett, Dixon, Figures, Ghee, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom -11

MESSAGE FROM THE HOUSE**Mr. President:**

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 445. Relating to Shelby County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

GREG PAPPAS,
Clerk.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 108. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

	Page
H. 666	160
Gasoline tax incr., distrib., refunds, Secs. 40-17-31, 40-17-70, 40-17-81, 40-17-102, 40-17-122 am'd.	
H. 665	159
Highway Finance Authority for fed. aid projects on st. highway system, Secs. 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-314, 23-1-317 am'd.	
H. 669	161
Motor fuels, tax incr., Sec. 40-17-2 am'd.	

Senator Amari offered the following substitute for the Resolution, SR 108, to-wit:

SUBSTITUTE FOR SR 108**SR 108. SPECIAL ORDER CALENDAR.**

RESOLVED BY THE SENATE That the following bills in the

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order named shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

	Page
H. 614	156
H. 615	154
H. 666 Gasoline tax incr., distrib., refunds, Secs. 40-17-31, 40-17-70, 40-17-81, 40-17-102, 40-17-122 am'd.	160
H. 665 Highway Finance Authority for fed. aid projects on st. highway system, Secs. 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-314, 23-1-317 am'd.	159
H. 669 Motor fuels, tax incr., Sec. 40-17-2 am'd.	161

On motion of Senator Preuitt, said substitute was laid on the table.

And on motion of Senator Preuitt, the Resolution, SR 108, was adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 666. To amend Section 40-17-31 of the Code of Alabama 1975, to increase the excise tax for gasoline by \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services School District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to provide for the distribution of the supplemental net tax proceeds; to

amend Section 40-17-81 of the Code of Alabama 1975, to provide that the State Treasurer shall make all allocations and distributions of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 109. DEBATE ON HB 666.

BE IT RESOLVED BY THE SENATE THAT DEBATE ON HB 666 shall cease at 4:00 PM today and that a vote be taken at that time on HB 666.

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

Yeas 22 Nays 10

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Mitchell, Mitchem, Owens, Preuitt, Smith (B), and Waggoner -22

Nays:

Senators:

Amari, Corbett, Dixon, Figures, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom -10

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 445. Relating to Shelby County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., HB 666, adopted.

Yeas 22 Nays 10

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Ellis, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -22

Nays:

Senators:

Amari, Bailey, Corbett, Dixon, Figures, Lipscomb, Little, Parsons, Smith (J), and Windom -10

FURTHER CONSIDERATION OF HB 666

The Senate proceeded to further consideration of the Bill, HB 666.

Senator Windom offered the following substitute for the Bill, HB 666, to-wit:

SUBSTITUTE FOR HB 666

A BILL
TO BE ENTITLED
AN ACT

To amend Section 40-17-31 of the Code of Alabama 1975, to impose a supplemental excise tax for gasoline of \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the Department of Youth Services School District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to provide for the distribution of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-17-31 of the Code of Alabama 1975, as amended, is amended to read as follows:

§40-17-31.

"(a) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue an excise tax of \$.07 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use

of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section; and except gasoline and motor fuel, as defined in section 40-17-1, sold for use by city and county boards of education, to governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the department of youth services school district, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state; provided that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once.

(b) The state department of revenue is hereby authorized to issue to the United States certificates of exemption, upon forms prescribed by the department for use by the United States in purchasing gasoline or other fuels taxed by this section within the state of Alabama and which is paid for by the United States. Any person in reporting and paying the tax to the department may deduct the number of gallons of gasoline or other fuels taxed by this section sold to the United States, as shown by such certificate of exemption duly executed by the United States and filed with such report, and the department is authorized to adopt rules and regulations with respect to the issuance and use of such certificates.

(c) The revenue, less the cost of collection and all refunds authorized by law, obtained from the \$.07 excise tax on gasoline, naphtha and other liquid motor fuels, or any device or substitute therefor commonly used in internal combustion engines, as is provided for in this section, shall not be used for any purposes other than the following, namely:

(1) The legislature hereby finds as a fact that of all the gasoline sold in this state not less than thirty-five one hundredths of one percent thereof is used for marine purposes to propel vessels on inland and coastal waterways of this state. The legislature hereby declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating and boating facilities, seafoods and salt water sports fishing in this state. Thirty-five one hundredths of one percent of all state imposed taxes collected on the sale of gasoline (except gasoline and other fuels consumed in airplanes) shall be credited as follows: 60 percent to the state water safety fund of the water safety division and 40 percent to the seafood fund of the seafood division.

(2) The revenue arising from the sale of gasoline as herein defined, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section, and except for revenues from the supplemental net tax proceeds, for all other purposes shall not be used for any purpose other than for the construction, improvement, maintenance and supervision of highways, bridges and streets, including the retirement of bonds for the payment of which such revenues have been or may hereafter be pledged. The payment of the per diem and mileage of members of county governing bodies when engaged in supervising the construction, improvement and maintenance of highways, bridges and streets, shall be construed as used in supervision; however, the governing body of each county is authorized to expend an amount not to exceed one third of the total amount of such revenue that may be received by such county in the payment of any debt that may have been incurred by such county for the construction or maintenance of roads or bridges. This fund shall be allocated in the manner now provided by law. On the twentieth day of each month following that quarter of any fiscal year, all revenue derived from the sale of gasoline to be consumed in the motor of a boat or vessel as defined in subdivision (1) of this subsection shall be allocated to the state water safety fund and seafood fund.

(d)(1) Every distributor, refiner, retail dealer, storer or user of gasoline or any substitute or device therefor sold for use as a fuel to propel aircraft shall collect and pay over to the state department of revenue an excise tax in accordance with the following schedule upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for use as a fuel to propel aircraft:

a. Gasoline or other fuel used to propel aircraft powered by reciprocating engines shall be taxed at the rate of two and seven tenths cents per gallon.

b. Any fuel used to propel aircraft powered by jet or turbine engines shall be taxed at the rate of nine tenths of one cent per gallon.

(2) On July 31, 1977, or as soon thereafter as practicable, and at the same time in every year thereafter, the commissioner of revenue shall determine the total number of gallons of fuel upon which the tax levied in subdivision (1) of this subsection has been reported and paid to the state during the preceding 12-month period, and at the same time he shall ascertain the total net amount of revenue produced by the tax levied thereon. If the net proceeds of the tax for such period amount to more than \$650,000.00, the rate of tax shall be reduced in decrements of three tenths of one cent per gallon with respect to the tax levied in para-

graph a of subdivision (1) of this subsection and in decrements of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for such period at a level of \$600,000.00. If at any time after such a reduction the rate of tax collections declines to the extent that the \$600,000.00 level for a similar 12-month period cannot be maintained, the rate of the tax shall be correspondingly increased in increments of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and increments of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for a similar period at a level of \$600,000.00. It is the legislative intent by the above provisions to maintain collections at a \$600,000.00 level per annum.

(3) The revenue, less the cost of collection, obtained from the tax levied in subdivision (1) of this subsection shall be paid into the state treasury and be used exclusively for the purpose of paying the cost of acquiring, engineering, construction, improvement and maintenance of existing or proposed airports and other air navigation facilities within the state, for the payment of the salary of the state director of aeronautics, the salaries of other employees of the Alabama department of aeronautics and for the payment of other administrative and aeronautical expenses of the Alabama department of aeronautics and for the further purpose of creating a sinking fund for the payment of the interest and retirement of the principal of all bonds which may be hereafter lawfully issued, sold and delivered for funds to be used exclusively for the enumerated purposes.

(4) There is hereby exempted from the provisions of subdivision (1) of this subsection and from the excise tax imposed by this section the sale, use or consumption, distribution, storage or withdrawal from storage in this state of gasoline or any other fuel for use as a fuel to propel aircraft of a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words 'hub operation within this state' shall be construed to have all of the following criteria;

a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

(e) Every distributor, refiner, retail dealer or storer of gasoline or other fuels taxed by this section shall add the amount of the excise tax levied and assessed herein to the price of the gasoline or other fuels taxed by this section, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer or user with distributor, refiner, retail dealer or storer, or in the case of a licensed user, acting merely as an agent of the state for the collection and payment of the tax to the state.

(f) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue a supplemental excise tax of \$.05 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section; and except gasoline and motor fuel, as defined in section 40-17-1, sold for use by city and county boards of education, to governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the department of youth services school district, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state; provided that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once."

Section 2. Section 40-17-70 of the Code of Alabama 1975, is amended to read as follows:

§40-17-70.

"For the purpose of this division, the following terms shall have the meanings respectively ascribed to them in this section:

(1) BASE ANNUAL COUNTY DISTRIBUTION. Five hundred fifty thousand dollars.

(2) COST OF COLLECTION. The amounts from the proceeds of the highway gasoline tax that may be appropriated by the legislature to the department of revenue for its operating expenses.

(3) COUNTY. Each county in the state.

(4) FISCAL YEAR. A fiscal year of the state.

(5) HIGHWAY DEPARTMENT. The highway department of the state.

(6) HIGHWAY GASOLINE TAX.

a. The excise tax levied under section 40-17-31, exclusive of those portions of the said tax in respect of aviation fuel and marine gasoline, as those terms are used in the said section 40-17-31; and

b. The excise tax levied by sections 40-17-140 through 40-17-155, exclusive of that portion of the said tax in respect of diesel fuel.

(7) LOCAL SUBDIVISIONS' SHARE OF THE NET TAX PROCEEDS. The 55 percent of the net tax proceeds referred to in the first sentence of subsection (a) of section 40-17-73.

(8) MUNICIPALITY. An incorporated city or town in the state.

(9) NET TAX PROCEEDS. The entire proceeds from the highway gasoline tax, except the proceeds from the supplemental excise tax of \$.05 per gallon imposed by this act, less the cost of collection and less any refunds of the said proceeds pursuant to the provisions of article 3 of this chapter, or pursuant to the provisions of either of divisions 3 and 4 of this article 2.

(10) STATE. The state of Alabama.

(11) STATE'S SHARE OF THE NET TAX PROCEEDS. The 45 percent of the net tax proceeds referred to in the first sentence of subsection (a) of section 40-17-72.

(12) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle, located either within a municipality or in unincorporated territory and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term 'public highway' shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions, but shall not be deemed to include private driveways, private roads or private places not intended for use by the public.

(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of

the highway gasoline tax remaining after the applicable costs of collection and refunds have been deducted, less the cost of collection and less any refunds of the highway gasoline tax applicable to the supplemental gasoline excise tax imposed in Section 40-17-31(f), pursuant to the provisions of Article 3 of this Chapter, or pursuant to the provisions of Divisions 3 and 4 of this Article 2.

The foregoing definitions shall be deemed applicable whether terms defined are used in the singular or plural."

Section 3. The proceeds from the supplemental net tax proceeds levied in Section 40-17-31(f) of this act shall be deposited into the Alabama Special Educational Trust Fund.

Section 4. Section 40-17-102 of the Code of Alabama 1975, is amended to read as follows:

§40-17-102.

"If gasoline is used on the farm for agricultural purposes, as defined by this division, the ultimate purchaser of such gasoline shall be entitled to receive a refund of a portion of the state tax paid on such gasoline. The amount of such refund shall be equal to ~~\$.06~~ \$.11 per gallon for each gallon of gasoline which is purchased and used for such purposes."

Section 5. Section 40-17-103 of the Code of Alabama 1975, is amended to read as follows:

§40-17-103.

"Claims for state gasoline tax refunds must be sworn to and be filed with the commissioner of revenue on forms to be prepared and distributed by the commissioner. Such forms must be substantially as follows:

CLAIM FOR REFUND OF STATE TAX ON GASOLINE USED
ON A FARM FOR AGRICULTURAL PURPOSES.

1. Name _____

Address (Number and street or rural route) _____

(City, town, or post office) _____

(Zone) __ (State) __.

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2. Total number of gallons of gasoline purchased after December 31, 19_, and before January 1, 19_, for farming purposes, and for which a claim has been filed for a refund of the federal tax on gasoline under Public Law 466, H.R. 8780, 84th Congress, Chapter 160, 2nd Session ___ gallons.

3. Total number of gallons of gasoline purchased after December 31, 19_, and before January 1, 19_, for propelling tractors which are used exclusively for agricultural purposes or for operating auxiliary engines attached to and made a part of any farm machinery ___ gallons.

4. The names and addresses of all retailers, refiners, or distributors from whom the gasoline for which the refund is being claimed was purchased, together with the dates and number of the invoices covering the total number of gallons of gasoline on which such refund is being claimed (attach sheet or enter on reverse side of this form).

5. Rate of refund of state tax (per gallon) ___ ~~\$.06~~ \$.11.

6. Amount of refund claimed (line 3 multiplied by line 5) \$ ___

I declare under the penalties of perjury that this claim has been examined by me and to the best of my knowledge and belief is true and correct, and that the number of gallons shown in item 5 does not exceed the total number of gallons of gasoline on which I am legally entitled, under the laws of this state, to a refund of a portion of the state tax paid.

Signed: _____

Date: _____

Sworn and subscribed before me this the ___ day of _____, 19_."

Section 6. Section 40-17-122 of the Code of Alabama 1975, is amended to read as follows:

§40-17-122.

"If gasoline is used in the static and fixed testing of engines manufactured or remanufactured in this state, and if the said testing in no way uses the public highways of this state, the ultimate purchaser of such gasoline shall be entitled to receive a refund of A portion of the

state tax paid on such gasoline. The amount of such refund shall be equal to all state taxes paid except ~~one-half-cent~~ \$.01 per gallon for each gallon of gasoline which is purchased and used for such purposes."

Section 7. The Department of Revenue is authorized to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40 of the Code of Alabama 1975, not in conflict with the specific provisions hereof.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are repealed. Notwithstanding the foregoing, this act shall not repeal or affect in any way Section 40-17-220, Code of Alabama 1975.

Section 10. This act becomes effective on the first day of the second month following its becoming a law.

On motion of Senator Foshee, said substitute was laid on the table.

Yeas 19 Nays 7

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, and Smith (B) -19

Nays:

Senators:

Corbett, Figures, Little, Parsons, Sanders, Smith (J), and Windom - 7

Senator Corbett offered the following amendment to the Bill, HB 666, to-wit:

AMENDMENT TO HB 666

Amend HB 666 on page 12, after line 34 by adding the following:

"This act will become law only if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law."

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On motion of Senator Foshee, said amendment was laid on the table.

Yeas 19 Nays 11

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuit, and Smith (B) **-19**

Nays:

Senators:

Amari, Bailey, Corbett, Dixon, Figures, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom **-11**

Senator Amari offered the following substitute for the Bill, HB 666, to-wit:

SUBSTITUTE FOR HB 666

**A BILL
TO BE ENTITLED
AN ACT**

To amend Section 40-17-31 of the Code of Alabama 1975, to impose a supplemental excise tax for gasoline of \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the Department of Youth Services School District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to provide for the distribution of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static

and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-17-31 of the Code of Alabama 1975, as amended, is amended to read as follows:

§40-17-31.

"(a) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue an excise tax of \$.07 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section; and except gasoline and motor fuel, as defined in section 40-17-1, sold for use by city and county boards of education, to governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the department of youth services school district, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state; provided that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once.

(b) The state department of revenue is hereby authorized to issue to the United States certificates of exemption, upon forms prescribed by the department for use by the United States in purchasing gasoline or other fuels taxed by this section within the state of Alabama and which is paid for by the United States. Any person in reporting and paying the tax to the department may deduct the number of gallons of gasoline or other fuels taxed by this section sold to the United States, as shown by such certificate of exemption duly executed by the United States and filed with such report, and the department is authorized to adopt rules and regulations with respect to the issuance and use of such certificates.

(c) The revenue, less the cost of collection and all refunds autho-

rized by law, obtained from the \$.07 excise tax on gasoline, naphtha and other liquid motor fuels, or any device or substitute therefor commonly used in internal combustion engines, as is provided for in this section, shall not be used for any purposes other than the following, namely:

(1) The legislature hereby finds as a fact that of all the gasoline sold in this state not less than thirty-five one hundredths of one percent thereof is used for marine purposes to propel vessels on inland and coastal waterways of this state. The legislature hereby declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating and boating facilities, seafoods and salt water sports fishing in this state. Thirty-five one hundredths of one percent of all state imposed taxes collected on the sale of gasoline (except gasoline and other fuels consumed in airplanes) shall be credited as follows: 60 percent to the state water safety fund of the water safety division and 40 percent to the seafood fund of the seafood division.

(2) The revenue arising from the sale of gasoline as herein defined, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section, and except for revenues from the supplemental net tax proceeds, for all other purposes shall not be used for any purpose other than for the construction, improvement, maintenance and supervision of highways, bridges and streets, including the retirement of bonds for the payment of which such revenues have been or may hereafter be pledged. The payment of the per diem and mileage of members of county governing bodies when engaged in supervising the construction, improvement and maintenance of highways, bridges and streets, shall be construed as used in supervision; however, the governing body of each county is authorized to expend an amount not to exceed one third of the total amount of such revenue that may be received by such county in the payment of any debt that may have been incurred by such county for the construction or maintenance of roads or bridges. This fund shall be allocated in the manner now provided by law. On the twentieth day of each month following that quarter of any fiscal year, all revenue derived from the sale of gasoline to be consumed in the motor of a boat or vessel as defined in subdivision (1) of this subsection shall be allocated to the state water safety fund and seafood fund.

(d)(1) Every distributor, refiner, retail dealer, storer or user of gasoline or any substitute or device therefor sold for use as a fuel to propel aircraft shall collect and pay over to the state department of revenue an excise tax in accordance with the following schedule upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for use as a fuel to propel aircraft:

a. Gasoline or other fuel used to propel aircraft powered by reciprocating engines shall be taxed at the rate of two and seven tenths cents per gallon.

b. Any fuel used to propel aircraft powered by jet or turbine engines shall be taxed at the rate of nine tenths of one cent per gallon.

(2) On July 31, 1977, or as soon thereafter as practicable, and at the same time in every year thereafter, the commissioner of revenue shall determine the total number of gallons of fuel upon which the tax levied in subdivision (1) of this subsection has been reported and paid to the state during the preceding 12-month period, and at the same time he shall ascertain the total net amount of revenue produced by the tax levied thereon. If the net proceeds of the tax for such period amount to more than \$650,000.00, the rate of tax shall be reduced in decrements of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and in decrements of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for such period at a level of \$600,000.00. If at any time after such a reduction the rate of tax collections declines to the extent that the \$600,000.00 level for a similar 12-month period cannot be maintained, the rate of the tax shall be correspondingly increased in increments of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and increments of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for a similar period at a level of \$600,000.00. It is the legislative intent by the above provisions to maintain collections at a \$600,000.00 level per annum.

(3) The revenue, less the cost of collection, obtained from the tax levied in subdivision (1) of this subsection shall be paid into the state treasury and be used exclusively for the purpose of paying the cost of acquiring, engineering, construction, improvement and maintenance of existing or proposed airports and other air navigation facilities within the state, for the payment of the salary of the state director of aeronautics, the salaries of other employees of the Alabama department of aeronautics and for the payment of other administrative and aeronautical expenses of the Alabama department of aeronautics and for the further purpose of creating a sinking fund for the payment of the interest and retirement of the principal of all bonds which may be hereafter lawfully issued, sold and delivered for funds to be used exclusively for the enumerated purposes.

(4) There is hereby exempted from the provisions of subdivision

(1) of this subsection and from the excise tax imposed by this section the sale, use or consumption, distribution, storage or withdrawal from storage in this state of gasoline or any other fuel for use as a fuel to propel aircraft of a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words 'hub operation within this state' shall be construed to have all of the following criteria;

a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

(e) Every distributor, refiner, retail dealer or storer of gasoline or other fuels taxed by this section shall add the amount of the excise tax levied and assessed herein to the price of the gasoline or other fuels taxed by this section, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer or user with distributor, refiner, retail dealer or storer, or in the case of a licensed user, acting merely as an agent of the state for the collection and payment of the tax to the state.

(f) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue a supplemental excise tax of \$.05 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section; and except gasoline and motor fuel, as defined in section 40-17-1, sold for use by city and county boards of education, to governing bodies of counties and incorporated municipalities, the Alabama Institute for Deaf and Blind, the department of youth services school district, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state; provided that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once."

Section 2. Section 40-17-70 of the Code of Alabama 1975, is amended to read as follows:

§40-17-70.

"For the purpose of this division, the following terms shall have the meanings respectively ascribed to them in this section:

(1) **BASE ANNUAL COUNTY DISTRIBUTION.** Five hundred fifty thousand dollars.

(2) **COST OF COLLECTION.** The amounts from the proceeds of the highway gasoline tax that may be appropriated by the legislature to the department of revenue for its operating expenses.

(3) **COUNTY.** Each county in the state.

(4) **FISCAL YEAR.** A fiscal year of the state.

(5) **HIGHWAY DEPARTMENT.** The highway department of the state.

(6) **HIGHWAY GASOLINE TAX.**

a. The excise tax levied under section 40-17-31, exclusive of those portions of the said tax in respect of aviation fuel and marine gasoline, as those terms are used in the said section 40-17-31; and

b. The excise tax levied by sections 40-17-140 through 40-17-155, exclusive of that portion of the said tax in respect of diesel fuel.

(7) **LOCAL SUBDIVISIONS' SHARE OF THE NET TAX PROCEEDS.** The 55 percent of the net tax proceeds referred to in the first sentence of subsection (a) of section 40-17-73.

(8) **MUNICIPALITY.** An incorporated city or town in the state.

(9) **NET TAX PROCEEDS.** The entire proceeds from the highway gasoline tax, except the proceeds from the supplemental excise tax of \$.05 per gallon imposed by this act, less the cost of collection and less any refunds of the said proceeds pursuant to the provisions of article 3 of this chapter, or pursuant to the provisions of either of divisions 3 and 4 of this article 2.

(10) **STATE.** The state of Alabama.

(11) STATE'S SHARE OF THE NET TAX PROCEEDS. The 45 percent of the net tax proceeds referred to in the first sentence of subsection (a) of section 40-17-72.

(12) PUBLIC HIGHWAY. Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle, located either within a municipality or in unincorporated territory and laid out or erected as such by the public or dedicated or abandoned to the public or intended for use by or for the public. The term 'public highway' shall apply to and include driveways upon the grounds of universities, colleges, schools and institutions, but shall not be deemed to include private driveways, private roads or private places not intended for use by the public.

(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of the highway gasoline tax remaining after the applicable costs of collection and refunds have been deducted, less the cost of collection and less any refunds of the highway gasoline tax applicable to the supplemental gasoline excise tax imposed in Section 40-17-31(f), pursuant to the provisions of Article 3 of this Chapter, or pursuant to the provisions of Divisions 3 and 4 of this Article 2.

The foregoing definitions shall be deemed applicable whether terms defined are used in the singular or plural."

Section 3. The proceeds from the supplemental net tax proceeds levied in Section 40-17-31(f) of this act shall be deposited into the Alabama Special Educational Trust Fund.

Section 4. Section 40-17-102 of the Code of Alabama 1975, is amended to read as follows:

§40-17-102.

"If gasoline is used on the farm for agricultural purposes, as defined by this division, the ultimate purchaser of such gasoline shall be entitled to receive a refund of a portion of the state tax paid on such gasoline. The amount of such refund shall be equal to ~~\$.06~~ \$.08 per gallon for each gallon of gasoline which is purchased and used for such purposes."

Section 5. Section 40-17-103 of the Code of Alabama 1975, is amended to read as follows:

§40-17-103.

"Claims for state gasoline tax refunds must be sworn to and be filed with the commissioner of revenue on forms to be prepared and distributed by the commissioner. Such forms must be substantially as follows:

**CLAIM FOR REFUND OF STATE TAX ON GASOLINE USED
ON A FARM FOR AGRICULTURAL PURPOSES.**

1. Name _____

Address (Number and street or rural route) _____

(City, town, or post office) _____

(Zone) __ (State) __.

2. Total number of gallons of gasoline purchased after December 31, 19__, and before January 1, 19__, for farming purposes, and for which a claim has been filed for a refund of the federal tax on gasoline under Public Law 466, H.R. 8780, 84th Congress, Chapter 160, 2nd Session __ gallons.

3. Total number of gallons of gasoline purchased after December 31, 19__, and before January 1, 19__, for propelling tractors which are used exclusively for agricultural purposes or for operating auxiliary engines attached to and made a part of any farm machinery __ gallons.

4. The names and addresses of all retailers, refiners, or distributors from whom the gasoline for which the refund is being claimed was purchased, together with the dates and number of the invoices covering the total number of gallons of gasoline on which such refund is being claimed (attach sheet or enter on reverse side of this form).

5. Rate of refund of state tax (per gallon) __ ~~\$.06~~ \$.11.

6. Amount of refund claimed (line 3 multiplied by line 5) \$ __

I declare under the penalties of perjury that this claim has been examined by me and to the best of my knowledge and belief is true and correct, and that the number of gallons shown in item 5 does not exceed the total number of gallons of gasoline on which I am legally entitled, under the laws of this state, to a refund of a portion of the state tax paid.

Signed: _____

Date: _____

Sworn and subscribed before me this the __ day of __, 19__."

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Section 6. Section 40-17-122 of the Code of Alabama 1975, is amended to read as follows:

§40-17-122.

"If gasoline is used in the static and fixed testing of engines manufactured or remanufactured in this state, and if the said testing in no way uses the public highways of this state, the ultimate purchaser of such gasoline shall be entitled to receive a refund of a portion of the state tax paid on such gasoline. The amount of such refund shall be equal to all state taxes paid except ~~one-half cent~~ \$.01 per gallon for each gallon of gasoline which is purchased and used for such purposes."

Section 7. The Department of Revenue is authorized to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40 of the Code of Alabama 1975, not in conflict with the specific provisions hereof.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are repealed. Notwithstanding the foregoing, this act shall not repeal or affect in any way Section 40-17-220, Code of Alabama 1975.

Section 10. This act becomes effective on the first day of the second month following its becoming a law.

On motion of Senator Foshee, said substitute was laid on the table.

And said Bill, HB 666, was read a third time at length and passed.

Yeas 22 Nays 12

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -22

Nays:

Senators:

Amari, Bailey, Corbett, Dixon, Figures, Ghee, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom -12

Senator Foshee moved that the Senate reconsider the vote by which the Bill, HB 666, was passed, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., HB 665, adopted.

Yeas 21 Nays 8

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dixon, Ellis, Foshee, Ghee, Hale, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -21

Nays:

Senators:

Bailey, Corbett, Lipscomb, Little, Parsons, Sanders, Smith (J), and Windom - 8

BILLS ON THIRD READING RESUMED

THE BILL:

H. 665. To further provide for the issuance of obligations by the Alabama Federal Aid Highway Finance Authority and for the use of proceeds of obligations of the authority for the purpose of anticipating and providing for the federal share of the cost of constructing federal aid projects on the state highway system; for this purpose amending Sections 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-313, 23-1-314, and 23-1-317, Code of Alabama 1975.

was read a third time at length and passed.

Yeas 25 Nays 6

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Sanders, Smith (B), Waggoner, and Wilson -25

Nays:

Senators:

Corbett, Lipscomb, Little, Parsons, Smith (J), and Windom

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BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., HB 669, adopted.

Yeas 22 Nays 9

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Sanders, Smith (B), Waggoner, and Wilson -22

Nays:

Senators:

Bailey, Corbett, Dixon, Figures, Lipscomb, Little, Parsons, Smith (J), and Windom - 9

BILLS ON THIRD READING RESUMED

THE BILL:

H. 669. To amend Section 40-17-2 of the Code of Alabama 1975, to levy an additional excise tax of \$.05 per gallon upon the selling, using, or consuming, distributing, storing, or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; and to provide for the effective date of this act.

was taken up.

Senator Corbett offered the following amendment to the Bill, HB 669, to-wit:

AMENDMENT TO HB 669

Amend HB 669 on page 2, lines 13 through 15 by striking Section 4 in its entirety and by inserting in lieu thereof the following:

"Section 4. This act shall become effective on the first day of the second month following its becoming a law. This act will become law only if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law.

On motion of Senator Foshee, said amendment was laid on the table.

Yeas 21 Nays 9

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton,
Dial, Ellis, Floyd, Foshee, Hale, Langford, Lindsey, Mitchell,
Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -21

Nays:

Senators:

Amari, Bailey, Corbett, Figures, Lipscomb, Little, Sanders, Smith (J),
and Windom - 9

Senator Windom offered the following substitute for the Bill, HB
669, to-wit:

SUBSTITUTE FOR HB 669**A BILL
TO BE ENTITLED
AN ACT**

To amend Section 40-17-2 of the Code of Alabama 1975, to levy a supplemental excise tax of \$.05 per gallon upon the selling, using, or consuming, distributing, storing or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; to provide for the distribution of said taxes; and to provide for the effective date of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-17-2 of the Code of Alabama 1975, is amended to read as follows:

§40-17-2.

"(a) Every distributor, storer or user, as defined in this article, shall pay, except as otherwise herein provided, an excise tax of \$.08 per gallon upon the selling, using or consuming, distributing, storing or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; provided, that where the excise tax herein levied shall have been paid by one distributor or storer or user, such payment shall be sufficient, the intent being that the tax shall be paid but once; provided further, that motor fuel subject to the excise tax levied by this article shall not be subject to any other excise tax levied by the state. The proceeds from the excise

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tax levied in this subsection shall be distributed as provided in Section 40-17-13, Code of Alabama 1975.

(b) Every distributor, storer or user, as defined in this article, shall pay, except as otherwise herein provided, a supplemental excise tax of \$.05 per gallon upon the selling, using or consuming, distributing, storing or withdrawing from storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; provided, that where the excise tax herein levied shall have been paid by one distributor or storer or user, such payment shall be sufficient, the intent being that the tax shall be paid but once; provided further, that motor fuel subject to the excise tax levied by this article shall not be subject to any other excise tax levied by the state. The proceeds of the supplemental excise tax levied in this subsection shall be deposited into the Alabama Special Educational Trust Fund."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed. Notwithstanding the forgoing, this act shall not repeal or affect in any way Section 40-17-220, Code of Alabama 1975.

Section 4. This act shall become effective on the the first day of the second month following its becoming a law.

On motion of Senator Foshee, said substitute was laid on the table.

Yeas 21 Nays 7

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -21

Nays:

Senators:

Bailey, Corbett, Dixon, Little, Sanders, Smith (J), and Windom - 7

And said Bill, HB 669, was read a third time at length and passed.

Yeas 21 Nays 10

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton,

Dial, Ellis, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Waggoner, and Wilson -21

Nays:

Senators:

Amari, Bailey, Corbett, Dixon, Figures, Lipscomb, Little, Parsons, Smith (J), and Windom -10

Senator Foshee moved that the Senate reconsider the vote by which the Bill, HB 669, was passed, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

BUDGET ISOLATION RESOLUTION

Senator Windom, B.I.R., HB 246, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Ellis, Ghee, Hale, Horn, Lindsey, Lipscomb, Little, Owens, Preuitt, Smith (B), and Windom -19

Nays:

- 0

FURTHER CONSIDERATION OF HB 246

The Senate proceeded to further consideration of the Bill:

H. 246. To authorize the abatement of local ad valorem taxes (other than those imposed for public school purposes and for capital improvements for public education), construction related transactions taxes, and mortgage and recording taxes incurred in establishing or expanding industries in Alabama; provides a procedure for granting the abatement of local ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes; limits the tax exemptions available through various public agencies and authorities and local governments; to require additional reporting of county tax assessing officials so that the annual abstract of property identifies and lists property by class and by public school system within the county; to provide transition rules; to preserve rights and obligations accrued under repealed laws; to provide for the severability of any invalid provision; to provide effective dates; to amend Section 40-7-35 and to repeal Sections 40-9-40 through 40-9-49, Code of Alabama 1975.

having been postponed on the Twenty-Second Legislative Day, was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 246, to-wit:

SUBSTITUTE FOR HB 246

**A BILL
TO BE ENTITLED
AN ACT**

To authorize the abatement of ad valorem taxes, other than those imposed for public school purposes and for capital improvements for public education, construction related transaction taxes, and mortgage and recording taxes incurred in establishing or expanding industries in Alabama; to provide a procedure for granting the abatement of ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes; to limit the abatements available through various public agencies and authorities and local governments; to require additional reporting of county tax assessing officials so that the annual abstract of property identifies and lists property by class and by public school system within the county; to provide transition rules; to preserve rights and obligations accrued under repealed laws; to provide for the severability of any invalid provision; to provide effective dates; and to amend Section 40-7-35, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

ARTICLE ONE

Section 1. Short title. This act shall be known and may be cited as the "Tax Incentive Reform Act of 1992."

Section 2. Legislative findings. The Legislature recognizes the importance of industrial development to the well being of the people of the state. The Legislature also recognizes that industries are attracted by a number of factors, including natural resources, a well-trained workforce, good roads, and excellent education. The Legislature also recognizes that in some cases additional incentives are required to succeed in attracting new industries and encouraging existing industries to expand and therefore intends to continue to allow county and municipal governments and certain public corporations to provide substantial tax incentives.

Section 3. Definitions. For purposes of this act, the following words and phrases mean:

- (a) **ABATE, ABATEMENT.** A reduction or elimination of a tax-

payer's liability for tax. An abatement of transaction taxes imposed under Chapter 23 of Title 40, Code of Alabama 1975, shall relieve the seller from the obligation to collect and pay over the transaction tax as if the sale were to a person exempt, to the extent of the abatement, from the transaction tax.

(b) **CONSTRUCTION RELATED TRANSACTION TAXES.** The transaction taxes imposed by Chapter 23 of Title 40, Code of Alabama 1975, on tangible personal property and taxable services incorporated into an industrial development property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses.

(c) **EDUCATION TAXES.** Ad valorem taxes that must, pursuant to the Constitution of Alabama of 1901, as amended, legislative act, or the resolution or other action of the governing board authorizing the tax, be used for educational purposes or for capital improvements for education.

(d) **INDUCEMENT.** Refers to an agreement, or an "inducement agreement," entered into between a private user and a public authority or county or municipal government and/or a resolution or other official action, an "inducement resolution," "inducement letter," or "official action" adopted by a public authority or county or municipal government, in each case expressing, among other things, the present intent of such public authority or county or municipal government to issue bonds in connection with the private use property therein described.

(e) **INDUSTRIAL DEVELOPMENT PROPERTY.** Real and/or personal property acquired in connection with establishing or expanding an industrial or research enterprise in Alabama.

(f) **INDUSTRIAL OR RESEARCH ENTERPRISE.** Any trade or business described in 1987 Standard Industrial Classification Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 8731, 8733, and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget.

(g) **MAJOR ADDITION.** Any addition to an existing industrial development property that equals the lesser of: 30 percent of the original cost of the industrial development property or two million dollars (\$2,000,000). For purposes of this subsection, the original cost of

existing industrial development property shall be the amount of industrial development property with respect to which an abatement was granted under this act when the property was constructed, or if the existing industrial development property was constructed before January 1, 1993, the maximum amount that would have been allowed if the provisions of this act had applied at the time it was constructed. Only property that constitutes industrial development property shall be taken into account in making the determination in the previous sentence.

(h) **MAXIMUM EXEMPTION PERIOD.** A period equal to the shorter of:

(1) Twenty years from and after:

(A) The date of initial issuance by a county, city, or public authority of bonds to finance any costs of a private use property, or

(B) If no such bonds are ever issued, the later of: (i) the date on which title to such property was acquired by or vested in such county, city, or public authority, or (ii) the date on which such property is or becomes owned, for federal income tax purposes, by a private user; or

(2) The weighted average economic life of the assets comprising such property, determined consistently with the provisions of 26 U.S.C. § 147(b) and measured from the date such property is placed in service.

(i) **MORTGAGE AND RECORDING TAXES.** The taxes imposed by Chapter 22 of Title 40, Code of Alabama 1975.

(j) **NONEDUCATIONAL AD VALOREM TAXES.** Ad valorem taxes imposed by the state, counties, municipalities, and other taxing jurisdictions of Alabama that are not required to be used for educational purposes or for capital improvements for education.

(k) **PERSON.** Includes any individual, partnership, trust, estate, or corporation.

(l) **PRIVATE USER.** Any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes.

(m) **PRIVATE USE INDUSTRIAL PROPERTY.** Private use property that also constitutes industrial development property.

(n) **PRIVATE USE PROPERTY.** Any real and/or personal

property which is or will be treated as owned by a private user for federal income tax purposes even though title may be held by a public authority or municipal or county government.

(o) **PUBLIC AUTHORITY.** A corporation created for public purposes pursuant to a provision of the Constitution of Alabama of 1901 or a general or local law that authorized it to issue bonds, the interest on which is exempt from the Alabama income tax, as in effect on the effective date of this act.

(p) **PUBLIC INDUSTRIAL AUTHORITY.** A public authority authorized to issue bonds to acquire, construct, equip or finance industrial development property.

Section 4. Authorization of abatement.

(a) Noneducational ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes may be abated with respect to private use industrial property and security documents and other recordable documents associated therewith as provided in this act.

(b) No abatement of noneducational ad valorem taxes may exceed the maximum exemption period. No further abatement with respect to the same private use industrial property may be granted unless there is a major addition to the property, in which event abatement may be granted only with respect to the noneducational ad valorem taxes on the major addition by complying with the procedures set forth in this act.

(c) An abatement of construction related transaction taxes shall apply only to tangible personal property and taxable services incorporated into a private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of construction related transaction taxes shall extend beyond the date the private use industrial property is placed in service. No further abatement may be granted for construction related transaction taxes with respect to the private use industrial property unless incurred in connection with a major addition, in which event only construction related transaction taxes that may be added to capital account with respect to the major addition, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses, may be abated by complying with the procedures set forth in this act.

(d) Mortgage and recording taxes with respect to mortgages,

deeds, and documents relating to issuing or securing obligations and conveying title into or out of the public authority or county or municipal government with respect to a private use industrial property may be abated by complying with the procedures set forth in this act.

(c) An abatement under this section may be granted only with respect to private use industrial property that has not previously been placed in service by the private user who is applying for the abatement or by a person who is a related party, as defined in 26 U.S.C. § 267, with respect to such private user.

Section 5. Granting of abatement

(a) Subject to the geographical or jurisdictional limitations specified in subsection (b), the governing body of a municipality, a county, or a public industrial authority may grant abatements of all of the taxes allowed to be abated under Section 4 with respect to private use industrial property, but only in conjunction with or in anticipation of the financing by such municipality, county, or public industrial authority of such private use industrial property through the issuance of bonds or other indebtedness by such municipality, county, or public industrial authority to a person or persons none of whom or which is a related party, as defined in 26 U.S.C. § 267, with respect to the private user of such private use industrial property.

(b) The abatements authorized to be granted pursuant to subsection (a) may be granted:

(1) By the governing body of a municipality, with respect to private use industrial property located within the limits of the municipality or within the police jurisdiction of the municipality.

(2) By the governing body of a county, with respect to private use industrial property located in the county and not within a municipality or the police jurisdiction of a municipality, unless consented to by resolution of the governing body of the municipality.

(3) By the governing body of a public industrial authority, with respect to private use industrial property located within the jurisdiction of the public industrial authority.

Section 6. Procedure for granting abatement.

(a) Any person who proposes to become a private user of industrial development property or of a major addition may apply to the gov-

erning body of any municipality, county, or public industrial authority, at or about the time that private user is requesting inducement, for an abatement of all of the taxes allowed to be abated under Section 4 with respect to such property. The application shall contain information that will permit the governing body to which it is submitted to make a reasonable cost/benefit analysis as to the proposed industrial development property and to determine the maximum exemption period for the abatement of noneducational ad valorem taxes.

(b) The abatements granted by the governing body shall be embodied in an agreement, which may be the same as the inducement, between the governing body and the private user, setting forth:

(1) The estimated amount of each abatement and the maximum exemption period.

(2) Good-faith projections by the private user of: the amount to be invested; the number of individuals to be employed, initially and in the succeeding three years; and the payroll.

(c) The private user shall file with the Department of Revenue within 90 days after the granting of the abatements a copy of the agreement required by subsection (b), the contents of which the department shall use solely for its statistical and record-keeping activities but shall otherwise keep confidential unless consented to in writing by the private user.

ARTICLE TWO

Section 7. Private use property; taxation thereof.

(a) Notwithstanding any other provision of law, if a public authority or county or municipal government has title to or a possessory right in private use property, then:

(1) The property shall be subject to ad valorem taxes as if the private user held title to the property.

(2) The private user of the property shall be liable for construction related transaction taxes as if the private user held title to such property.

(3) The private user of the property shall be subject to the recording taxes for mortgages, deeds, and documents relating to the issuance or securing of obligations and the conveyance of title to property into and out of a public authority.

(b) A private user of property described in subsection (a) may apply for, and if the property constitutes industrial development property, be granted abatements of ad valorem, construction related transaction taxes, and mortgage and recording taxes as described in Article 1 of this act.

(c) The rule of subsection (a) (1) shall not apply to local ad valorem taxes if a private user was entitled to use the property pursuant to a lease or other agreement entered into before October 1, 1993, or would be entitled to use the property at some future time pursuant to inducement entered into or adopted before October 1, 1993, provided, however, that this subdivision shall apply only to the property and the amount of capital expenditures set out in such inducement, subject to de minimis deviations.

(d) The rule of subsection (a) (2) shall not apply to construction related transaction taxes if a private user was entitled to use the property pursuant to a lease or other agreement entered into before January 1, 1993, or would be entitled to use the property at some future time pursuant to inducement entered into or adopted before January 1, 1993, provided, however, that this subdivision shall apply only to the property and the amount of capital expenditures set out in such agreement, subject to de minimis deviations.

(e) The rule of subsection (a) (3) shall not apply to mortgage and recording taxes with respect to property if a private user was entitled to use the property pursuant to a lease or other agreement entered into before January 1, 1993, or would be entitled to use the property at some future time pursuant to inducement entered into or adopted before January 1, 1993, provided, however, that this subdivision shall apply only to the property specified in such agreement, subject to de minimis deviations.

(f) Nothing in this act shall affect the exemption of any health care facility owned by a health care authority under Title 22, Chapter 21, Article 11, Code of Alabama 1975. Nothing in this act shall affect the exemptions from all ad valorem taxes, construction related transaction taxes, and mortgage and recording taxes with respect to industrial development property that is owned for federal income tax purposes by a public authority or county or municipal government.

ARTICLE THREE

Section 8. Section 40-7-35, Code of Alabama 1975, is amended to read as follows:

"§40-7-35. Same abstracts of property contained in book.

"When the book of assessments has been completed, the county tax assessor must without delay make out in triplicate, upon forms to be furnished by the Department of Revenue, a complete abstract of all real and personal property as contained in the assessment book of ~~his~~ the county, identified by each public school system of the county and listing the same for each public school system of the county therein, showing the total amount and value of each class of taxable property, including specifically the total amount and value of each class of taxable property defined in Section 40-8-1, as amended, as Class III property that is appraised according to its current use value and the total amount and value of such Class III property that is appraised according to its fair and reasonable market value, property exempt from taxation and the amount of taxes of each item, extended in a column; such abstract of assessment must be approved and certified to by the Department of Revenue, one copy of which the said tax assessor must forward to the Department of Finance not later than the second Monday in August each year, one to the Department of Revenue at Montgomery, and the other ~~he must deliver~~ to the tax collector by said date. The Department of Finance shall report to the Governor any tax assessor who for five days after the date required has failed to forward to the Department of Finance the abstract of assessment of ~~his~~ the county, identified by each public school system of the county and listing the same for each public school system of the county therein, and the Governor shall forthwith require of ~~such~~ the tax assessor an official report of the cause of ~~such~~ the failure."

Section 9. Effect of repeal. The repeal of a prior act or part thereof by this act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act before its repeal.

Section 10. Severability. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the parts that were not declared invalid or unconstitutional.

Section 11. (a) Except as provided in subsection (b), this act shall be effective for all taxable years or periods beginning after December 31, 1992, if the constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law.

(b) With respect to ad valorem taxes, this act shall be effective for all taxable years or periods beginning after September 30, 1993, if the

constitutional amendment proposed by House Bill 252 of the 1992 Regular Session has been ratified by the people and proclaimed by the Governor as required by law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 246, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 246

Amend the substitute for House Bill 246, on Page 4, Line 28, by deleting the word "twenty" and inserting in lieu thereof the word "fifteen".

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 2 to the substitute, as amended, for the Bill, HB 246, to-wit:

**AMENDMENT NO. 2 TO SUBSTITUTE, AS AMENDED,
FOR HB 246**

Amend the substitute, as amended, for House Bill 246, on Page 7, Line 19, after the word "property," by deleting the words "but only in conjunction with or in anticipation of" and further deleting Lines 20 through 26 and inserting a period "." after the word "property" on Line 19.

Which was adopted.

The Standing Committee on Finance and Taxation then reported the following amendment No. 3 to the substitute, as amended, for the Bill, HB 246, to-wit:

**AMENDMENT NO. 3 TO SUBSTITUTE, AS AMENDED,
FOR HB 246**

Amend the substitute, as amended, for House Bill 246, on Page 1, Line 11, by deleting the words "10-year" and inserting in its place the word "twelve year".

Further amend the substitute, as amended, for House Bill 246, on Page 4, Line 28, after the number "(1)" by deleting the words "fifteen years" and inserting in its place the words "twelve years".

Which was adopted.

Senator Windom offered the following amendment to the substitute, as amended, for the Bill, HB 246, to-wit:

**AMENDMENT TO SUBSTITUTE, AS AMENDED,
FOR HB 246**

Amend the substitute, as amended, for HB 246 on page 12 by deleting Section 11 in its entirety and inserting in lieu thereof the following new Section 11:

"Section 11. (a) Except as provided in subsection (b), this act shall be effective for all taxable years or periods beginning after December 31, 1992 and upon its passage and approval of the Governor, or upon its otherwise becoming a law.

(b) With respect to ad valorem taxes, this act shall be effective for all taxable years or periods beginning after September 30, 1993 and upon the passage and approval of the Governor, or upon its otherwise becoming a law.

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuit, Smith (B), and Windom -26

Nays:

- 0

Senator Windom offered the following amendment No. 2 to the Bill, HB 246, as amended by the substitute, as amended, to-wit:

AMENDMENT NO. 2 TO HB 246, AS AMENDED

Amend House Bill 246, as amended, on page 12 line 12, after the word "law" by inserting the following:

"; provided, however, no abatements of education taxes shall be granted after the effective date of this Act.

Which was adopted.

**REGULAR SESSION
23rd Day**

1813

Yeas 24 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuit, Sanders, and Windom -24

Nays:

- 0

And said Bill, HB 246, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 28 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, Smith (J), Waggoner, and Windom -28

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Windom, B.I.R., HB 247, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchem, Owens, Preuit, Smith (J), Waggoner, and Windom -25

Nays:

- 0

FURTHER CONSIDERATION OF HB 247

The Senate proceeded to further consideration of the Bill:

H. 247. To provide for the reporting of tax exempt property by any lessee of the property; to provide for reports from the several county tax assessors and to the State Department of Revenue; and to provide penalties.

having been postponed on the Twenty-Second Legislative Day, was taken up.

The Standing Committee on Finance and Taxation reported the following substitute for the Bill, HB 247, to-wit:

SUBSTITUTE FOR HB 247

**A BILL
TO BE ENTITLED
AN ACT**

To provide for the reporting of tax exempt property by any lessee of the property; to provide for reports from the several county tax assessors and to the State Department of Revenue; and to provide penalties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For purposes of this act, the following words and phrases mean:

(a) **PRIVATE USER.** Any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes.

(b) **PRIVATE USE PROPERTY.** Any real and/or personal property which is or will be treated as owned by a private user for federal income tax purposes even though title may be held by a public authority or municipal or county government.

(c) **PUBLIC AUTHORITY.** A corporation created for public purposes pursuant to a provision of the Constitution of Alabama of 1901 or a general or local law that authorized it to issue bonds, the interest on which is exempt from the Alabama income tax, as in effect on the effective date of this act.

Section 2. (a) Any private user of private use property leased by the private user from a municipality, county, or public authority of the State of Alabama shall, not later than January 1, 1993, file with the tax assessor of the county in which the leased property is located, the information required by subsection (c) of this section.

(b) In the event any lessee described in subsection (a) of this section is unable to file the information required by subsection (c) of this section by January 1, 1993, such lessee shall on or before January 1, 1993, notify the tax assessor in writing, setting forth the item or items of required information which the lessee is unable to ascertain or calculate,

the reason or reasons for such inability, and if the inability to file any one or more of the items of required information can be corrected with additional time, the additional time, not to exceed nine months, which the lessee shall require. In the event any lessee described in subsection (a) of this section shall not have filed either the information required by subsection (c) of this section or the notification described in the preceding sentence of this subsection (b) by January 1, 1993, or having requested additional time as described in the preceding sentence of this subsection (b), shall not have filed within the additional time stated to be required the item or items for the ascertainment or calculation of which the additional time was required, the tax assessor of the county in which the leased property is located shall notify the lessee in writing by certified mail, specifying the action required of the lessee and stating that the same must be performed within 60 days of the date such notice is given, whereupon the lessee shall, within the required period, either file the items or items of missing information or a notification of inability to comply as described in the preceding sentence of this subsection (b).

(c) Every lessee of property described in subsection (a) of this section shall file the following information:

(1) The location of the real property subject to the lease with the public authority, county, or municipality of the State of Alabama.

(2) A list of all improvements to the property since the effective date of the lease with the public authority, county, or municipality of the State of Alabama.

(3) A list of all personal property subject to the lease with the public authority, county, or municipality of the State of Alabama.

(4) The purchase price, or a reasonable estimate thereof, of such real and personal property.

(5) An estimate of the fair and reasonable market value of the property; provided, however, that such estimate may be made without obtaining an appraisal of the property.

(6) The effective date and term of the lease with the public authority, county, or municipality of the State of Alabama, including any extension or renewal options provided in the lease.

Section 3. Every tax assessor shall, not later than March 1, 1993, forward to the Department of Revenue the following information:

(a) A complete listing of all real property located in the county

which is subject to a lease with a public authority, county, or municipality of the State of Alabama.

(b) A complete listing of all personal property located in the county which is subject to a lease with a public authority, county, or municipality of the State of Alabama.

(c) A complete listing of the purchase price of such real and personal property.

(d) A complete listing of the estimated fair and reasonable market value of such real and personal property.

(e) The estimated tax revenue produced by such real and personal property if taxed at the rates applicable to taxable property located in the same jurisdiction.

(f) A list of all lessees which have not filed the required information by January 1, 1993, including within such list a separate category of those lessees, if any, which shall have submitted a notification of inability as described in the first sentence of subsection (b) of Section 2 and attaching to such list a copy of each such notification of inability. The completeness of the information required to be provided by the tax assessor pursuant to subsections (a) through (e) of this section shall be deemed subject to the list required to be provided pursuant to this subsection (f).

Section 4. The Department of Revenue shall, not later than May 1, 1993, compile the information submitted pursuant to Section 3 of this act and provide to the Legislature the following information:

(a) A complete listing of all real and personal property located in the state which is subject to a lease with a public authority, county, or municipality of the State of Alabama.

(b) A complete listing of the estimated fair and reasonable market value of such real and personal property.

(c) The estimated tax revenue produced by such real and personal property if taxed at the rates applicable to taxable property located in the respective jurisdictions.

(d) A copy of all lists, if any, received by the department from tax assessors pursuant to subsection (f) of Section 3 of this act. The completeness of the information required to be provided by the depart-

ment pursuant to subsections (a) through (c) of this section shall be deemed subject to the list required to be provided pursuant to this subsection (d).

Section 5. A county tax assessor may require any public authority, county, or municipality of the State of Alabama that owns property which must be reported to the assessor under the provisions of Section 2 of this act to provide any information in its possession to such assessor for use in ascertaining the completeness and accuracy of the information provided under Section 2 of this act.

Section 6. If any lessee which is required to file the information required by Section 2 of this act fails to file either such information or a notification of inability as described in the first sentence of subsection (b) of Section 2 within the time frames set forth in said subsection (b), or files false information, or files information that is so incomplete or inaccurate that the county tax assessor is unable to determine the information required by Section 3 of this act with reasonable accuracy, then such lessee shall be liable for a penalty equal in amount to ten dollars (\$10) per month for each month until either such information is supplied, completed, or corrected or a proper notification of inability is filed with the tax assessor. The penalty shall be assessed and collected in accordance with the provisions of Title 40, Code of Alabama 1975, governing the assessment and collection of ad valorem taxes.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

The Standing Committee on Finance and Taxation then reported the following amendment to the substitute for the Bill, HB 247, to-wit:

AMENDMENT TO SUBSTITUTE FOR HB 247

Amend the substitute for House Bill 247, on Page 5, Line 31, as follows:

By striking the words and figure "ten dollars (\$10)" and inserting in lieu thereof the words and figure "fifty dollars (\$50)".

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton,

Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (J), Waggoner, and Windom -25

Nays: - 0

And said Bill, HB 247, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 23 Nays 1
Abstaining 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Mitchell, Mitchem, Owens, Smith (J), Waggoner, and Windom -23

Nay: Senator Preuitt - 1

Abstaining: Senator Dial - 1

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bills, your signature thereto is requested.

H. 665. To further provide for the issuance of obligations by the Alabama Federal Aid Highway Finance Authority and for the use of proceeds of obligations of the authority for the purpose of anticipating and providing for the federal share of the cost of constructing federal aid projects on the state highway system; for this purpose amending Sections 23-1-300, 23-1-301, 23-1-306, 23-1-307, 23-1-313, 23-1-314, and 23-1-317, Code of Alabama 1975.

Also:

H. 666. To amend Section 40-17-31 of the Code of Alabama 1975, to increase the excise tax for gasoline by \$.05 a gallon except gasoline sold for use as fuel to propel aircraft and except gasoline and motor fuel as defined in Section 40-17-1 of the Code of Alabama 1975, sold for use by city and county boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services School

District, and private and church schools as defined in Section 16-28-1 of the Code of Alabama 1975, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state and to describe the purpose for which the revenue can be used; to amend Section 40-17-70 of the Code of Alabama 1975, to change the definition of net tax proceeds and to define supplemental net tax proceeds and to provide for the distribution of the supplemental net tax proceeds; to amend Section 40-17-81 of the Code of Alabama 1975, to provide that the State Treasurer shall make all allocations and distributions of the supplemental net tax proceeds; to amend Section 40-17-102 of the Code of Alabama 1975, to provide refunds of the supplemental gasoline excise tax for gasoline used for agricultural purposes; to amend Section 40-17-103 of the Code of Alabama 1975, to amend the format of the claim form for the agricultural gasoline tax refund; to amend Section 40-17-122 of the Code of Alabama 1975, to provide for a refund of the state tax paid on gasoline except for one-half cent per gallon of the supplemental excise tax for gasoline used for static and fixed testing of engines manufactured or remanufactured in this state; to authorize the State Department of Revenue to adopt, promulgate, and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of Article 2, Chapter 17, Title 40, of the Code of Alabama 1975; and to provide for the effective date of this act.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 669. To amend Section 40-17-2 of the Code of Alabama 1975, to levy an additional excise tax of \$.05 per gallon upon the selling, using, or consuming, distributing, storing, or withdrawing from

storage in this state of any motor fuel for use in the operation of any motor vehicle upon the highways of this state; and to provide for the effective date of this act.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

INTRODUCTION OF BILL

Senator Foshee requested and received permission to suspend the Rules in order to introduce the following Bill, and it was read one time, and referred to appropriate standing committee, as follows:

By Senator Foshee:

S. 595. To make a supplemental appropriation of \$26,220,000 from the Public Road and Bridge Fund to the State Highway Department for fiscal year 1991-92 for federal aid matching and state maintenance.

Committee on Finance
and Taxation

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., HB 249, adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Langford, Lipscomb, Little, Mitchell, Owens, Sanders, Smith (B), Waggoner, and Windom
-23

Nays:

- 0

FURTHER CONSIDERATION OF HB 249

The Senate proceeded to further consideration of the Bill:

H. 249. To provide for the Franchise Tax Reform Act of 1992; to amend Sections 40-14-40, 40-14-41, 40-14-49, 40-14-52, 40-14-53, 40-14-56, and 10-2A-260 and 10-2A-261 of the Code of Alabama 1975; to repeal Sections 40-14-1 through 40-14-3, inclusive, 40-14-20 to 40-14-23, inclusive, 40-14-41.1, 40-14-42 to 40-14-48, inclusive, 40-14-50, 40-14-51, 40-14-54, 40-14-55, and 40-14-70 to 40-14-74, inclusive, Code of Alabama 1975.

having been postponed on the Twenty-Second Legislative Day was taken up.

The Standing Committee on Finance and Taxation reported the following amendment to the Bill, HB 249, to-wit:

AMENDMENT TO HB 249

Amend House Bill 249, on Page 4, Line 30, as follows:

After the word "Alabama" by inserting the following: "or under the laws of the United States having its principal place of business in Alabama".

Further amend House Bill 249 on page 5, line 18, by deleting the word "partner's" and inserting in lieu thereof the word "partners".

Further amend House Bill 249 on page 5, line 30, between the words "or" and "limited" by inserting the following: "10 percent or more of the capital interest in the".

Further amend House Bill 249 on page 8, line 6, after the word "Alabama" by inserting the following: "or under the laws of the United States having its principal place of business in Alabama".

Further amend House Bill 249 on page 8, line 11, after the word "Alabama" by inserting the following: "or organized under the laws of the United States if such other corporations pay a franchise tax to the state of Alabama".

Further amend House Bill 249 on page 8, line 14, after the word "state" by inserting the words "or of the United States".

Further amend House Bill 249 on page 8, line 15, after the word "stock" by inserting the words "in the corporation".

Further amend House Bill 249 on page 8, line 16, between the

words "the" and "limited" by inserting the words "capital interests in the".

Further amend House Bill 249 on page 8, line 16, after the word "partnership" by deleting the word "interests".

Further amend House Bill 249 on page 19, line 24, by deleting the word "file" and inserting in lieu thereof the word "filed".

Which was adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner -22

Nays:

- 0

MOTION TO ADJOURN LOST

At 5:10 P.M., Senator Sanders moved that the Senate adjourn until Tuesday, April 21, 1992, at 9 o'clock A.M., which motion was lost.

Yeas 8 Nays 21

Yeas:

Senators:

Bailey, Corbett, Figures, Langford, Mitchem, Parsons, Sanders, and Smith (B) - 8

Nays:

Senators:

Barron, Bedsole, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (J), Waggoner, and Windom -21

FURTHER CONSIDERATION OF HB 249

The Senate proceeded to further consideration of the Bill, HB 249, as amended.

The Standing Committee on Finance and Taxation reported the following amendment No. 2, to the Bill, HB 249, as amended, to-wit:

AMENDMENT NO. 2 TO HB 249, AS AMENDED

Amend House Bill 249, as amended, on Page 9, Line 7, by adding the following after the word "the": "United States or the".

Further amend on Page 22, Line 2, by adding the following after the word "law.": "Notwithstanding any provision to the contrary elsewhere provided by law, during the interim time prior to the repeal of sections 40-14-70 through 40-14-74, Code of Alabama 1975, financial institutions and the shares of financial institutions shall be exempt from the provisions of sections 40-14-70 through 40-14-74, Code of Alabama (1975)."

Which was adopted.

Yeas 26 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (B), Smith (J), and Waggoner
-26

Nay: Senator Windom

- 1

And said Bill, HB 249, as thus amended, was read a third time at length and passed.

Yeas 26 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom
-26

Nays:

- 0

MESSAGE FROM THE HOUSE

Mr. President:

The House has non-concurred in the Senate Amendment to the Bill:

H. 164. To allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

and requests a Committee on Conference.

And the Speaker of the House has appointed as Conferees on part of the House, Representatives: Laird, Harper, and Carothers.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Bedsole, the Senate acceded to the request of the House for a Committee on Conference on the disagreement of the two Houses on the Senate amendment to the Bill, HB 164, the title of which is set out in the foregoing Message from the House.

Yeas 25 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (B), Smith (J), Waggoner, and Windom
-25

Nays:

- 0

And the President and Presiding Officer of the Senate appointed as Committee on the part of the Senate, Senators Bedsole, Langford, and Mitchell.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 110. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business

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1825

taking precedence over all other matters until disposed of:

	Page
H. 248	148
Economic Development Commission estab., ad valorem tax levied, distrib., election, consti. amend.	
H. 242	150
Taxation, 7 1/2 mil incr., consti. amend.	
H. 243	156
Ad valorem tax, current use, assessment rates, exemptions, subjects of tax, numerous code sections amended and repealed	
H. 221	112
Education accountability act, appt. of supts. of ed., teacher suspension and tenure, city system defined, oath, hearings, nontenured principals, numerous sections amended and repealed	
H. 252	158
Ad valorem taxation, exemptions, corporate franchise taxes, income tax, repeal exemption of private use property from taxation, Constitution 1901 amended and repealed	

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 314. Relating to Cullman County; to amend Sections 1 and 12 of Act No. 83-778, S. 559, 1983 Regular Session, to increase a county lodging tax and provide further for the use of the proceeds of the tax.

Also:

S. 484. Providing further for the salary of the sheriff of Lee County, Alabama.

**GREG PAPPAS,
Clerk.**

RECESS

At 5:30 P.M., on motion of Senator Mitchell, the Senate took a recess until 5:45 P.M.

At 5:45 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF SR 110

The Senate proceeded to further consideration of the Resolution, SR 110.

On motion of Senator deGraffenried, said Resolution was adopted by the Senate.

RESOLUTION

Senators Windom, Lipscomb, and Figures requested and received permission to offer the following Senate Resolution, to-wit:

SR 111. EXPRESSING THE DISPLEASURE OF THE MOBILE COUNTY SENATE AND HOUSE DELEGATIONS AT RECENT ACTIONS OF THE MOBILE COUNTY INDUSTRIAL DEVELOPMENT BOARD.

WHEREAS, it is with a profound sense of disbelief that the Mobile County Senate and House Delegations learned of the Mobile County Industrial Development Board's decision to grant an abatement of a substantial portion of the 17.5 mills of ad valorem taxes for the support of the Mobile County School System that would have been paid by Degussa, Inc. on their \$95 million bond issue for the expansion of their facilities in Theodore Industrial Complex, and

WHEREAS, the members of the Mobile County Senate and House Delegations have spent months developing several revenue raising measures that will impact upon local homeowners, consumers and small businesses which always bear the major portion of every local tax increase, and

WHEREAS, the announcement of your "giveaway" of potential tax revenue for educational purposes as stated in the Mobile Register on Tuesday, March 24 proves to the Senate and House Delegations that Industrial Development Boards appointed by local governing bodies in

Mobile County do not consider the fact that their actions have put the Mobile County School System with its 67,000 students into financial straits over the years, and

WHEREAS, the actions of the local IDB Boards for many years have resulted in the Mobile County School System losing potential revenue of over \$5 million for the tax years, 1991-1992;

NOW THEREFORE, BE IT RESOLVED, That the Mobile County Senate and House Delegation communicate its extreme displeasure to the Mobile County Industrial Development Board and urge the Board to rescind its exemption of Degussa from the 17.5 mills of ad valorem taxes for educational purposes on this new \$95 million bond issue.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to each member of the Mobile County Industrial Development Board, and the members of the Mobile County Commission.

Which was read and referred to the Standing Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 314. Relating to Cullman County; to amend Sections 1 and 12 of Act No. 83-778, S. 559, 1983 Regular Session, to increase a county lodging tax and provide further for the use of the proceeds of the tax.

Also:

S. 484. Providing further for the salary of the sheriff of Lee County, Alabama.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after

the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing report from the Committee on Rules.

COMMITTEE REPORT FILED

In accordance with the provisions of Act No. 79-43, the report of the Joint Study Committee on Agriculture was filed with the Secretary.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Report of the Committee on Conference on the disagreement of the two Houses on the Senate amendment to the Bill:

H. 164. To allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more to purchase credit for active military service for up to four years creditable service in his or her retirement system.

said Conference Report being in words and figures as follows:

REPORT OF COMMITTEE ON CONFERENCE ON HB 164

We, the Committee of Conferees appointed to reconcile the difference between the two Houses concerning HB 164 have met, considered the matter, and agreed to the following:

Conference Committee Substitute for HB 164 is attached.

RICHARD LAIRD,
TAYLOR F. HARPER,
JOE R. CAROTHERS, JR.,

Conferees on the Part of the House.

CHARLES D. LANGFORD,
ANN BEDSOLE,
WENDELL W. MITCHELL,

Conferees on the Part of the Senate.

CONFERENCE COMMITTEE SUBSTITUTE FOR HB 164

A BILL
TO BE ENTITLED
AN ACT

To amend Section 36-27-49.3 of the Code of Alabama 1975, as amended, relating to the purchase of military service for creditable service in the employees' or teachers' retirement system who have met minimum vesting requirements, so as to add appellate judges of the judicial retirement system, and to allow any active and contributing member of the Employees' or Teachers' Retirement System of Alabama who has been such a member for six consecutive years or more, or his or her spouse, to purchase credit for active military service for up to four years creditable service in his or her retirement system for a six month period following passage of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-27-49.3 of the Code of Alabama 1975, as amended, is hereby further amended to read as follows:

§36-27-49.3.

"(a) Whenever used in this section, all words and phrases defined in section 36-27-1 and section 16-25-1 and Article 12, Chapter 18 of the Code of Alabama 1975, shall have the same meanings ascribed to them in such sections and chapter, unless the context clearly indicates that a different meaning is intended.

"(b) Any active and contributing member of the employees' or teachers' or any appellate judge in the judicial retirement system of Alabama who has met the minimum vesting requirements under said system and who has honorable duty consisting of active full time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the armed forces, and who has not received credit for such service toward retirement status in the employees' or teachers' or any appellate judge in the judicial retirement system or any other public pension fund including the U.S. armed forces, but excluding the federal social security program, may be granted by the board of control, membership service for up to four years of such service in the armed forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

(c) For a period of six months only following passage of this amendatory act, any active and contributing member of the employees' or teachers' retirement system of Alabama who has been such a member for six consecutive years or more and who has honorable duty consisting of active full time military service in the armed forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the armed forces, and who has not received credit for such service toward retirement status in the employees' or teachers' retirement system or any other public pension fund including the U.S. armed forces, but excluding the federal social security program, may be granted by the board of control, membership service for up to four years of such service in the armed forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

"(d) Any member eligible to claim and purchase such credit for service under subsection (b) or (c) of this section shall be awarded creditable service under the employees' or teachers' or any appellate judge in the judicial retirement system of Alabama provided he or she, or his or her spouse pursuant to subsection (c) only, shall pay into said retirement system or fund, prior to said member's date of retirement, a sum equal to a percentage of his or her current annual earnable compensation, or average final compensation, whichever is greater, for each year of service purchased; the applicable percentage of this current annual earnable compensation or average final compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation, for each year of service purchased."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

And said Bill, HB 164, as thus amended by the Report of the Committee on Conference was again read and passed.

And said Bill, HB 164, together with the Report of the Committee on Conference, is herewith sent to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE AND CONFERENCE MESSAGE

On motion of Senator Bedsole, the Senate concurred in and adopted the Report of the Committee on Conference appointed to reconcile the disagreement of the two Houses on the Senate amendment to the Bill, HB 164, the title of which and said Conference Report are set out in the foregoing Message from the House.

Yeas 23 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Owens, Preuitt, Sanders, Smith (J), Waggoner, and Windom -23

Nays:

Senators:

Little and Parsons

- 2

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the third special, paramount, and continuing order of business for today, the first of which was the Bill:

H. 248. To levy an additional two and one-half mill ad valorem tax and an additional five mill ad valorem tax and provide for the distribution of the respective proceeds therefrom, to provide that the aforesaid levies shall be contingent upon the approval by the qualified electors of the state of, in the case of the two and one-half mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 252 at the 1992 Regular Session of the Legislature, and in the case of the five mill levy, the amendment to the Constitution of Alabama of 1901 that was proposed by the Act that was introduced as House Bill 242 at the 1992 Regular Session of the Legislature.

having been postponed previously on the Twenty-Third Legislative Day, was again taken up.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., HB 248, offered.

NOTICE IN WRITING

Senator Foshee requested and received unanimous consent to suspend the Rules to offer the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that on the next legislative day a motion will be made to amend the Senate Rules as follows:

Amend Rule 36 by striking therefrom the third sentence which states: "Any rule may be suspended by the consent of the Senate unless one or more Senators object thereto."

And insert in lieu thereof: "Any rule may be suspended by the consent of the Senate unless three or more Senators object thereto."

Which was read and ordered filed with the Secretary.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills delivered to the Governor, with the date and hour of delivery, to-wit:

SB 445

Delivered to the Governor, April 16, 1992, at 3:30 P.M.

SB 314

SB 484

Delivered to the Governor, April 16, 1992, at 6:05 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 6:30 P.M., on motion of Senator Waggoner, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, HB 248, the Senate adjourned until Tuesday, April 21, 1992, at 9 o'clock A.M.